2008 ILLINOIS REGISTER

RULES OF GOVERNMENTAL AGENCIES

Volume 32, Issue 31
August 1, 2008
Pages 12115-13103

Index Department
Administrative Code Division
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
http://www.cyberdriveillinois.com

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

2008 REGISTER SCHEDULE VOLUME #32

Issue #	Rules Due Date	Date of Issue
1	December 21, 2007*	January 4, 2008
2	December 31, 2007	January 11, 2008
3	January 7, 2008	January 18, 2008
4	January 14, 2008	January 25, 2008
5	January 22, 2008	February 1, 2008
6	January 28, 2008	February 8, 2008
7	February 4, 2008	February 15, 2008
8	February 11, 2008	February 22, 2008
9	February 19, 2008	February 29, 2008
10	February 25, 2008	March 7, 2008
11	March 3, 2008	March 14, 2008
12	March 10, 2008	March 21, 2008
13	March 17, 2008	March 28, 2008
14	March 24, 2008	April 4, 2008
15	March 31, 2008	April 11, 2008
16	April 7, 2008	April 18, 2008
17	April 14, 2008	April 25, 2008
18	April 21, 2008	May 2, 2008
19	April 28, 2008	May 9, 2008
20	May 5, 2008	May 16, 2008
21	May 12, 2008	May 23, 2008
22	May 19, 2008	May 30, 2008
23	May 27, 2008	June 6, 2008

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27	June 23, 2008	July 7, 2008
28	June 30, 2008	July 11, 2008
29	July 7, 2008	July 18, 2008
30	July 14, 2008	July 25, 2008
31	July 21, 2008	August 1, 2008
32	July 28, 2008	August 8, 2008
33	August 4, 2008	August 15, 2008
34	August 11, 2008	August 22, 2008
35	August 18, 2008	August 29, 2008
36	August 25, 2008	September 5, 2008
37	September 2, 2008	September 12, 2008
38	September 8, 2008	September 19, 2008
39	September 15, 2008	September 26, 2008
40	September 22, 2008	October 3, 2008
41	September 29, 2008	October 10, 2008
42	October 6, 2008	October 17, 2008
43	October 14, 2008	October 24, 2008
44	October 20, 2008	October 31, 2008
45	October 27, 2008	November 7, 2008
46	November 3, 2008	November 14, 2008
47	November 10, 2008	November 21, 2008
48	November 17, 2008	December 1, 2008
49	November 24, 2008	December 5, 2008
50	December 1, 2008	December 12, 2008
51	December 8, 2008	December 19, 2008
52	December 15, 2008	December 26, 2008
53	December 22, 2008	January 2, 2009

Editor's Note: The Regulatory Agenda submission period will end July.1, 2008. The Division is no longer accepting Regulatory Agendas. The second filing period for submitting will start October 14, 2008 with the last day to file on January 2, 2009.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Electronic Commerce Security Act

2) Code Citation: 14 Ill. Adm. Code 105

3) Section Number: 105.300 — Proposed Action: New

4) Statutory Authority: Implementing and authorized by the Electronic Commerce Security Act [5 ILCS 175]

5) A Complete Description of the Subjects and Issues Involved: Under the current rule, in accordance with the Electronic Commerce Security Act, the Department serves as the single certification authority that may issue digital signature technology for State agencies. Due to the increasing use of this technology, and at the request of JCAR, the Department is adding Subpart C, Agency Utilization, which identifies use of digital technology by State agencies.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Springfield, Illinois 62706

217/785-1793

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The changes will only affect governmental entities. As such small municipalities may be affected with no impact on current practices. Small businesses and not-for-profit corporations will not be affected.

B) Reporting, bookkeeping or other procedures required for compliance: The proposed rule changes will not affect existing procedures at this time.

C) Types of professional skills necessary for compliance: None additional

14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 105
ELECTRONIC COMMERCE SECURITY ACT

SUBPART A: GENERAL PROVISIONS

Section
105.10 Scope and Definitions
105.20 Roles of the Department, the State Policy Authority, the Local Registration Authority and Other State Agencies
105.30 Maintenance of the State Certificate Policy and Certification Practice Statement
105.40 Records Retention
105.50 Audit Requirements
105.60 Appeals

SUBPART B: CERTIFICATION OF SECURITY PROCEDURES

Section
105.200 Certification of a Qualified Security Procedure for Electronic Records and Signature
105.210 Qualified Security Procedures
105.220 State PKI Procedures
105.230 Revocation or Suspension of Certification of a Security Procedure
105.240 Foreign Public Sector Certificate Authorities

SUBPART C: AGENCY UTILIZATION

Section
105.300 Identified and Approved Electronic Signature Activity

AUTHORITY: Authorized by the Electronic Commerce Security Act [5 ILCS 175].

SOURCE: Adopted at 31 Ill. Reg. 7251, effective May 4, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART C: AGENCY UTILIZATION

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Section 105.300 Identified and Approved Electronic Signature Activity

The Department has identified and recognizes the following agency electronic signature utilization:

Agency Name	**Application Type − Project Description − Objective**
Agriculture	Desktop application
Aging	TruePass web application
Aging	TruePass internal application
Auditor General	Desktop software for encryption
CMS	Using TruePass to control access to Mobius report viewing server for tracking time usage of employees
CMS	TruePass system to authenticate into Enterprise Web Operations site
CMS	Encrypted Disaster Recovery information contained on flash drives. Uses desktop Entelligence suite
DHS	Secure email
DCEO	TruePass/Access Manager − Access mainframe applications through the internet
HFS	TruePass authentication to Health and Family Services MEDI portal
EPA	TruePass/GetAccess internet application for online eforms
Fire Marshal	Entrust Security Provider for desktop encryption and secure email
IGAC	Desktop encryption and signing
ISAC	Teacher Education Scholarship Program (CollegeZone)
IDOT	Digital signatures with electronic forms (leave slips and time cards)
IDOT	Entrust Desktop Solutions with Word and Excel
IEMA	Desktop encryption via Entelligence

Illinois State Police	State Police application to automatically encrypt attachments for background checks
Illinois State Police	STICS (State Terrorism Information Center System) access
Illinois State Police	TruePass system developed for photo enforcement of traffic
Law Enforcement Training and Standards Board	Provide end users with access to training database
Office of Executive Inspector General for the Agencies of the Governor	Electronic timekeeping using digital signatures
Office of Executive Inspector General for the Agencies of the Governor	Desktop software
Pollution Control Board	Use of Entrust TruePass to provide authentication
Property Tax Appeal Board	Entrust Security Provider and Adobe forms
Revenue	Desktop software
State Employee Retirement System	TruePass/Access Manager − online State employee benefits
Veterans' Affairs	Encryption of documents using desktop suite

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Reports of Child Abuse and Neglect

2) Code Citation: 89 Ill. Adm. Code 300

3)

Section Numbers:	Proposed Action:
300.20	Amended
300.180	New

4) Statutory Authority: 325 ILCS 2

5) A Complete Description of the Subjects and Issues Involved: Proposed amendments to this Part implement the Abandoned Newborn Infants Protection Act.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: The rulemaking does not expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805/3].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65-D
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Facsimile: 217/557-0692

13) Initial Regulatory Flexibility Analysis: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Regulatory Agendas because the need for rulemaking was not foreseen.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 300
REPORTS OF CHILD ABUSE AND NEGLECT

Section

300.10 Purpose
300.20 Definitions
300.30 Reporting Child Abuse or Neglect to the Department
300.40 Content of Child Abuse or Neglect Reports
300.50 Transmittal of Child Abuse or Neglect Reports
300.60 Special Types of Reports (Recodified)
300.70 Referrals to the Local Law Enforcement Agency and State's Attorney
300.80 Delegation of the Investigation
300.90 Time Frames for the Investigation
300.100 Initial Investigation
300.110 The Formal Investigative Process
300.120 Taking Children into Temporary Protective Custody
300.130 Notices Whether Child Abuse or Neglect Occurred
300.140 Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.150 Referral for Other Services
300.160 Special Types of Reports
300.170 Child Death Review Teams
300.180 Abandoned Newborn Infants
300.APPENDIX A Acknowledgement of Mandated Reporter Status
300.APPENDIX B Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5], the Abandoned Newborn Infants Protection Act [325 ILCS 2] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective

November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendment at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990; emergency amendment at 15 Ill. Reg. 14285, effective September 25, 1991; amended at 15 Ill. Reg. 17986, effective December 1, 1991; emergency amendment at 17 Ill. Reg. 15658, effective September 10, 1993, for a maximum of 150 days; emergency expired February 7, 1994; amended at 18 Ill. Reg. 8377, effective May 31, 1994; amended at 18 Ill. Reg. 8601, effective June 1, 1994; amended at 19 Ill. Reg. 3469, effective March 15, 1995; amended at 19 Ill. Reg. 10522, effective July 1, 1995; amended at 20 Ill. Reg. 10328, effective July 19, 1996; amended at 22 Ill. Reg. 18847, effective October 1, 1998; amended at 23 Ill. Reg. 13590, effective November 15, 1999; amended at 24 Ill. Reg. 7707, effective June 1, 2000; amended at 25 Ill. Reg. 12781, effective October 1, 2001; amended at 26 Ill. Reg. 7435, effective May 15, 2002; amended at 26 Ill. Reg. 11730, effective August 1, 2002; amended at 27 Ill. Reg. 1114, effective January 15, 2003; amended at 27 Ill. Reg. 9431, effective June 9, 2003; peremptory amendment at 29 Ill. Reg. 21065, effective December 8, 2005; amended at 32 Ill. Reg. _____, effective _____.

Section 300.20 Definitions

"Abandonment" means parental conduct that demonstrates the purpose of relinquishing all parental rights and claims to the child. Abandonment is also defined as any parental conduct that evinces a settled purpose to forego all parental duties and relinquish all parental claims to the child.

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental *injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;*

creates a substantial risk of physical or mental *injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;*

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

commits or allows to be committed an act or acts of torture upon such child;

inflicts excessive corporal punishment; or

commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child. [325 ILCS 5/3]

"Act" means the Abused and Neglected Child Reporting Act [325 ILCS 5].

"CANTS/SACWIS 8" or "C/S8" means the Department's document titled Notification of a Report of Suspected Child Abuse and/or Neglect. This document explains the Department's child abuse/neglect allegation investigation process.

"CANTS/SACWIS 9" or "C/S9" means the Department's document titled Notification of Intent to Indicate Child Care Worker for Report of Child Abuse and/or Neglect. This document is used to notify a person that the Department plans to indicate that person as a perpetrator of child abuse/neglect.

"CANTS/SACWIS 10" or "C/S10" means the Department's document titled Notice of Intent to Indicate a Child Care Worker for Report of Child Abuse and/or Neglect-Questions and Answers. This is an informational document explaining the impact of a determination of indicated child abuse/neglect and the appeal process.

"CANTS/SACWIS 11" or "C/S11" means the Department's document titled Notification of Indicated Decision in an Employment Related Report of Suspected Child Abuse and/or Neglect. This is the document by which the Department

notifies a person that the Department has determined that there is credible evidence that he or she is responsible for the child abuse or neglect described in that document.

"Caregiver" means the child's parents, guardian, custodian or relative with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child care worker" means any person who is employed to work directly with children and any person who is an owner/operator of a child care facility, regardless of whether the facility is licensed by the Department. Child care facilities, for purposes of this definition, include child care institutions; child welfare agencies; day care/night care centers; day care/night care homes; day care/night care group day care homes; group homes; hospitals or health care facilities; schools, including school teachers and administrators, but not tenured school teachers or administrators who have other disciplinary processes available to them; and before and after school programs, recreational programs and summer camps. "Child care worker" also means persons employed as full-time nannies. A child care worker may, at his or her discretion, be subject to this Part if alleged to be responsible for child abuse or neglect outside of his or her employment. "Child care worker" includes a person: currently employed as a child care worker; currently enrolled in an academic program that leads to a position as a child care worker; or who has applied for a license required for a child care worker position. A person will be considered to be "employed as a child care worker" under this Part if, at the time of the notice of the investigation, he or she: has applied for, or will apply within 180 days for, a position as a child care worker; is enrolled in, or will commence within 180 days, an academic program that leads to a position as a

child care worker; or has applied for a license as a child care worker.

"Child-placing agency" means a licensed public or private agency that receives a child for the purpose of placing or arranging for the placement of the child in a foster family home or other facility for child care, apart from the custody of the child's parents. [325 ILCS 2/10]

"Child Protective Service Unit" or "(CPS") means certain specialized State employees of the Department assigned by the Director or his or her designee to perform the duties and responsibilities described under this Part. CPS staff is also referred to as investigative staff. [325 ILCS 5/3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"CPSW" means a Child Protective Service Worker.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

"Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the investigation of a report of child abuse or neglect has been deferred to another authority. The Department maintains responsibility for determining whether the report is indicated or unfounded, entering information about the report in the State Central Register and notifying the subjects of the report and mandated reporters of the results of the investigation.

"Department" or "DCFS" means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is credible evidence that child abuse or neglect occurred. A determination must be

either "indicated" or "unfounded."

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

"Emergency medical facility" means a freestanding emergency center or trauma center, as defined in the Emergency Medical Services (EMS) Systems Act. [325 ILCS 2/10]

"Emergency medical professional" includes licensed physicians, and any emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, trauma nurse specialist, and pre-hospital RN, as defined in the Emergency Medical Services (EMS) Systems Act. [325 ILCS 2/10]

"Fire station" means a fire station within the State that is staffed with at least one full-time emergency medical professional. [325 ILCS 2/10]

"Formal investigation" means those activities conducted by Department investigative staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. Those activities shall include: *an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report, the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report, in writing, of the existence of the report and their rights existing under* the *Act in regard to amendment or expungement.* [325 ILCS 5/3]

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising a child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the

person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 must be met.

"Hospital" has the same meaning as in the Hospital Licensing Act [210 ILCS 85].

"Indicated report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial investigation" means those activities conducted by Department investigative staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial oral report" means a report alleging child abuse or neglect for which the State Central Register has no prior records on the family.

"Involved subject" means a child who is the alleged victim of child abuse or neglect or a person who is the alleged perpetrator of the child abuse or neglect.

"Legal custody" means the relationship created by a court order in the best interest of a newborn infant that imposes on the infant's custodian the responsibility of physical possession of the infant, the duty to protect, train, and discipline the infant, and the duty to provide the infant with food, shelter, education, and medical care, except as these are limited by parental rights and responsibilities. [312 ILCS 2/10]

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Mandated reporters" means those individuals required to report suspected child abuse or neglect to the Department. A list of these persons and their associated responsibilities is provided in Section 300.30 of this Part.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs. [325 ILCS 5/3]

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support, or medical or other remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because such parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, such child is subject to the requirements of this Act for the reporting of, investigation of, and provision of protective services with respect to such child and his health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for such necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. *A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code.* [325 ILCS 5/3]

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"Newborn infant" means a child who a licensed physician reasonably believes is 7 days old or less at the time the child is initially relinquished to a hospital, police station, fire station, or emergency medical facility, and who is not an abused or a neglected child. [315 ILCS 2/10]

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, relative caregiver, an operator, supervisor, or employee of *a public or private residential agency or institution* or *public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy and volunteers or support personnel in any setting where children may be subject to abuse or neglect.* [325 ILCS 5/3]

"Police station" means a municipal police station or a county sheriff's office. [315 ILCS 2/10]

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Relative", for purposes of placement of children for whom the Department is legally responsible, *means any person, 21 years of age or over, other than the parent, who:*

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), *second cousin* (children of first cousins are second cousins to each other), *godparent* (as defined in this Section), *great-uncle, or great-aunt, or*

is the spouse of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Relinquish" means to bring a newborn infant, who a licensed physician reasonably believes is 7 days old or less, to a hospital, police station, fire station, or emergency medical facility and to leave the infant with personnel of the facility, if the person leaving the infant does not express an intent to return for the infant or states that he or she will not return for the infant. In the case of a mother who gives birth to an infant in a hospital, the mother's act of leaving the new born infant at the hospital without expressing an intent to return for the infant or stating that she will not return for the infant is not a "relinquishment" under the Act. [325 ILCS 2/10]

"State Central Registry" is the record of child abuse and/or neglect reports maintained by the Department pursuant to the Act.

"Subject of a report" means any child reported to the child abuse/neglect State Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

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

Section 300.180 Abandoned Newborn Infants

a) Parental Relinquishment of a Newborn Infant

1) In accordance with the Abandoned Newborn Infants Protection Act [325 ILCS 2], a parent of a newborn infant may relinquish the infant to a hospital, police station, fire station or emergency medical facility within seven days after the child's birth. Relinquishment of a newborn infant in accordance with the Act does not render the infant abused, neglected or abandoned solely because the newborn infant was relinquished to a hospital, police station, fire station or emergency medical facility.

2) If personnel of the hospital, police station, fire station or emergency medical facility to which the newborn infant is relinquished suspect child abuse or neglect that is not solely based on the newborn infant's relinquishment, they must report the suspected abuse or neglect to the Department's State Central Register. Hospital, police station, fire station and emergency medical facility personnel are mandated reporters under the Abused and Neglected Child Reporting Act.

3) Neither a child protective investigation nor a criminal investigation may be initiated solely because a newborn infant is relinquished in accordance with the Abandoned Newborn Infants Protection Act.

4) Newborn infants relinquished to a police station, fire station or emergency medical facility will be transported to the nearest hospital as soon as transportation can be arranged by the facility. If the parent of a relinquished infant returns to the facility to reclaim the infant within 72 hours, the facility must provide the parent with the name and location of the hospital to which the infant was transported.

b) Medical Examination

1) In accordance with the Abandoned Newborn Infants Protection Act, hospitals will have temporary protective custody of relinquished infants and will examine and perform medically reasonable tests that are appropriate to determine if the newborn infant has been abused or neglected. If the medical examination determines that there is no evidence of abuse or neglect and that the infant is no older than seven days, the relinquishing parent, if present, will be verbally notified by the facility that

he or she can remain anonymous, and he or she will have to petition the court if he or she desires to prevent the termination of parental rights and regain custody of the child. The relinquishing parent will also be offered a packet of information that includes:

A) Illinois Adoption Registry and Medical Information Exchange application;

B) Medical Information Exchange Questionnaire;

C) The Adoption Registry web site address and toll-free telephone number;

D) A resource list of providers of counseling services, including grief counseling, pregnancy counseling and counseling regarding adoption and other available infant placement options;

E) A notice that, no sooner than 60 days after the initial relinquishment of the infant, the child-placing agency or Department will commence proceedings to terminate parental rights and place the infant for adoption; and

F) A notice that failure of the parent to contact the placing agency or Department and petition for the return of custody of the infant before termination of parental rights bars any future action asserting legal rights with respect to the child.

2) If the medical examination of the relinquished child reveals that the child is abused or neglected or is not a newborn infant, the hospital and Department must proceed as if the child is an abused or neglected child.

c) Notification to the Department's State Central Register (SCR)
Within 12 hours after a police station, fire station or emergency medical facility accepts a newborn infant from a relinquishing parent, the hospital to which the infant is transported will report the infant in its custody to the State Central Register. The SCR will do the following:

1) Maintain a list of licensed child-placing agencies willing to take legal custody of relinquished newborn infants on a rotational basis;

2) Notify a licensed child-placing agency of the relinquished infant. If no licensed child-placing agency is able to accept the infant, the Department must assume responsibility for the infant as soon as practicable;

3) Request assistance from law enforcement officials to investigate the incident using the National Crime Information Center to ensure that the relinquished infant is not a missing child. The check will be requested within 24 hours after receiving notification from a hospital.

d) Child-Placing Agencies or the Department

1) Acceptance of Abandoned Newborn Infants
Child-placing agencies must accept an abandoned newborn infant, if the agency has the accommodations to do so, and place the infant in an adoptive home when possible. If no licensed child-placing agency is able to accept the infant, the Department must assume responsibility for the infant.

2) Petition for Legal Custody
Within three business days after assuming physical custody of the infant, the child-placing agency or Department shall file a petition in the division of the circuit court in which petitions for adoption are heard. The petition shall allege that the newborn infant has been relinquished in accordance with the Abandoned Newborn Infants Protection Act, and shall state that the child-placing agency intends to place the child in an adoptive home. The custody order issued shall remain in effect until a final adoption order based on the infant's best interests is issued in accordance with the Abandoned Newborn Infants Protection Act and the Adoption Act [750 ILCS 50].

3) Putative Father Registry
Within 30-days after the estimated date of birth of the relinquished newborn infant, the child-placing agency or Department must complete a search of the Department's Putative Father Registry in accordance with 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible).

4) No sooner than 60 days following the initial relinquishment of the infant to a hospital, police station, fire station or emergency medical facility, the child-placing agency or Department shall initiate proceedings to:

A) Terminate the parental rights of the relinquished newborn infant's known or unknown parent;

B) Appoint a guardian for the infant; and

C) Obtain consent to the infant's adoption.

e) Petition for Return of Custody
A parent of a newborn infant relinquished in accordance with the Abandoned Newborn Infants Protection Act may petition the court for the return of custody of the infant prior to the termination of the parental rights.

1) A parent of a relinquished newborn infant must contact the SCR to obtain the name of the child-placing agency to determine if a petition for termination of parental rights is pending. The parent must then file a petition for the return of custody in the appropriate circuit court.

2) The circuit court may hold the proceeding for the termination of parental rights in abeyance for a period not to exceed 60 days from the date that the petition for the return of custody was filed without a showing of good cause. During that period:

A) The court will order genetic testing to establish maternity or paternity, or both;

B) The Department shall conduct a child protective investigation and home study to develop recommendations to the court;

C) When indicated as a result of the Department's investigation and home study, the court may conduct other proceedings under the Juvenile Court Act of 1987 [705 ILCS 405] that the court determines appropriate.

3) If a parent fails to file a petition for return of custody prior to the termination of parental rights, the parent is barred from any future action

asserting his or her legal rights with respect to the infant unless the parent's act of relinquishment that led to the termination of his or her parental rights involved fraud perpetrated against and not stemming from or involving the parent. No action to void or revoke the termination of parental rights of a parent of a new born relinquished in accordance with the Act, including an action based on fraud, may be initiated after 12 months from the date that the newborn was initially relinquished to a hospital, police station, fire station or emergency medical facility.

f) Report to the Governor and General Assembly

1) The Department shall collect and evaluate information concerning the effect of the Abandoned Newborn Infants Protection Act in the prevention of injury to or death of newborn infants. Child-placing agencies shall provide the following information to the Department:

A) The number of newborn infants served by the agency;

B) The services provided to the infants;

C) The outcome of the care for the infants;

D) The disposition of the newborn infant cases;

E) Other relevant information requested by the Department.

2) The Department shall submit a report the Governor and General Assembly by January 1 of every year regarding the prevention of injury to or death of newborn infants and the effect of placements of infants under the Abandoned Newborn Infants Protection Act. The report shall include:

A) A summary of collected data;

B) Analysis of the data and conclusions regarding the effectiveness of the Act;

C) A determination of whether the purposes of the Abandoned Newborn Infants Protection Act are being achieved;

D) Recommendations for changes necessary to improve administration and enforcement of the Abandoned Newborn Infants Protection Act; and

E) Other information determined necessary by the Department.

g) Public Information Program
The Department will initiate a public information program to promote safe placement alternatives for newborn infants and inform the public of the Abandoned Newborn Infants Protection Act. The Department may use any media elements appropriate for the dissemination of the information.

h) Confidentiality
Personal information of persons relinquishing an infant in accordance with the Abandoned Newborn Infants Protection Act is confidential and shall not be released to the general public.

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

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1) Heading of the Part: Background Checks

2) Code Citation: 89 III. Adm. Code 385

3)

Section Numbers:	Proposed Action:
385.20	Amended
385.30	Amended
385.60	Amended
385.APPENDIX A	Amended
385.APPENDIX B	Amended

4) Statutory Authority: 225 ILCS 10; Adam Walsh Child Protection and Safety Act of 2006 [P.L. 109-248]

5) A Complete Description of the Subjects and Issues Involved: The Department is amending Part 385 as follows:

In Section 385.20, the definition of "Background Checks" has been expanded to include the search of criminal and national child abuse and neglect records thought the National Crime Information Database (NCID) as mandated by the Adam Walsh Child Protection and Safety Act and amendments to the Children and Family Services Act [20 ILCS 505/5].

In Section 385.20, the definition of "Background check" is expanded to include the statutory requirements mentioned above. Definitions of "National Crime Information Database", "National Registry" and "National Sex Offender Registry" were also added.

Section 385.30, is amended to require the Department to request a check of other states' child abuse and neglect registries and the National Sex Offenders Registry for foster home license applicants who have resided in another state in the preceding 5 years was added.

In Section 385.60, the statutory citation was added regarding the required foster family home background checks.

In APPENDIX A, the additional bars for foster home licensure were added as required by statute.

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In APPENDIX B, the required age for fingerprints was lowered from persons 18 years of age and over to persons 17 years of age and over as these persons are treated as adults by the Illinois criminal courts.

6) Published Studies or Reports, and Sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemakings currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: 217/557-0692

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

13) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses affected: This rulemaking affects childcare facilities subject to licensure by the Department.

B) Reporting, bookkeeping or other procedures required for compliance: Besides making copies of required files, there are no additional costs to small businesses.

C) Types of professional skills necessary for compliance: Clerical

14) Regulatory Agenda on which this rulemaking was summarized: The amendments to this Part were not anticipated when the 2 most recent Regulatory Agendas were published.

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

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 385
BACKGROUND CHECKS

Section
385.10 Purpose
385.20 Definitions
385.30 Applicability of This Part
385.40 Authorization for Background Checks
385.50 Child Abuse or Child Neglect
385.60 Criminal Convictions and Pending Criminal Charges
385.70 Disposition of Background Checks
385.80 Appeal of Decision to Deny License or Permit Based on Background Check Information
385.90 Records to be Maintained by the Child Care Facility
385.100 Confidentiality of Background Check Information
385.110 Severability of This Part
385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates
385.APPENDIX B Matrix of Persons Subject to Background Checks Under Part 385

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]; Section 5(a)(3)(A) and (F) and (v) of the Children and Family Services Act [20 ILCS 505/5(a)(3)(A) and (F) and (v)]; and Section 55a(34) of the Civil Administrative Code [20 ILCS 2605/55a(34)] Adam Walsh Child Protection and Safety Act [P.L. 109-248].

SOURCE: Emergency rules adopted at 10 Ill. Reg. 19123, effective October 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 6398, effective March 31, 1987; amended at 13 Ill. Reg. 5917, effective May 1, 1989; emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days; modified in response to Joint Committee on Administrative Rules objection at 20 Ill. Reg. 5712; emergency expired July 28, 1996; amended at 21 Ill. Reg. 4444, effective April 1, 1997; emergency amendment at 28 Ill. Reg. 1167, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 13432, effective September 30, 2004; amended at 32 Ill. Reg. _____, effective _____.

Section 385.20 Definitions

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"Access to children" means a child care facility employee's duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual and auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Assistant" or "child care assistant" means a person who assists a licensed home caregiver in the operation of the day care home, group day care home, or foster family home.

"Authorization for background check" means a complete, signed form prescribed by the Department which authorizes a background check as defined in this Part and submission of fingerprints, if required. An authorization for a background check may be used for the initial and all subsequent background checks required to determine compliance with the requirements of this Part.

"Background check" means:

- a criminal history check via fingerprints of persons age 17~~18~~ and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records or the National Crime Information Database (NCID) when applicable for prospective foster and adoptive parents, as appropriate; and

- a check of the Child Abuse and Neglect Tracking System (CANTS/SACWIS) and other state child protection systems, or the National Registry, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

- a check of the Illinois Sex Offender Registry and the National Sex Offenders Registry, as appropriate.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Illinois Department of Children and Family Services. This

system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. "Child care facility" includes a relative who is licensed or who applies for a license as a foster family home under Section 4 of the Child Care Act of 1969. A child care facility also means those described in the Child Care Act, including but not limited to any child care institution, maternity center, child welfare agency, day care center, day care agency, group home, foster family home, day care home, group day care home, partially exempt secure child care facility or youth emergency shelter (Section 2.05 of the Child Care Act of 1969).

"Conditional employee" means an individual (including any substitute or assistant) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that allow access to children and who has commenced such duties while awaiting the results of the background check required by this Part.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Date of notice" means the date of the written notice to a license holder that all persons subject to background checks, as defined in this Section, must authorize such checks and submit to fingerprinting, if required.

"Denial of application for license" means the refusal to grant a license or permit to a person, group of persons, agency, association or organization that applied for a license to operate a child care facility.

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"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Director" means the Director of the Illinois Department of Children and Family Services.

"Employee" means any staff person employed by a child care facility, and includes any substitute or assistant. This definition includes administrative, professional and other support staff who have access to children.

"Governing body" means the board of directors of a corporation; otherwise, the term means the owners or other persons, agency, association or organization legally responsible for the operation of the child care facility.

"Illinois Sex Offender Registry" means the registry of any person convicted of a felony sex crime or an attempt to commit a felony sex crime operated and maintained by the Illinois State Police.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" means, for purposes of background checks, *the operator or person with direct responsibility for daily operation of the facility to be licensed.* (Section 4.4 of the Child Care Act of 1969)

“Licensing entity” means the Department or a supervising agency recommending the license or processing the employment application.

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in a family home as evidenced by factors, including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority

which is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Multi-function agency" means an agency, association, or other organization that operates a child care facility, child welfare agency, or day care agency in addition to other services not subject to licensure under the Child Care Act of 1969. A child care facility, child welfare agency, or day care agency may consist of distinct units, divisions, or departments of a multi-function agency. In a multi-function agency, only the persons with direct authority for the operations of the child care facility and those who have access to children, as defined in this Section, are subject to the background check requirements of this Part.

"National Crime Information Database" or "NCID" means the National Crime Information Center and its incorporated criminal history databases.

"National Registry" means an electronic national registry of substantiated cases of child abuse and neglect supplied by the states, created by the Secretary of Health and Human Services in consultation with the Attorney General.

"National Sex Offender Registry" means an electronic national registry, operated and maintained by the United States Department of Justice, of any person convicted of a felony sex crime or an attempt to commit a felony sex crime in any state.

"Operator" means any person responsible for the day-to-day management of the child facility.

"Parental involvement" means parental assistance with a child care program such as participation in field trips, parties, attendance on special days for special events, or parental support and cooperation in the classroom.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff;

- any person who has access to children, as defined in this Section; and

- any person who provides services that allow unsupervised access to children if the requirement for background checks is a condition of a contract or agreement or is required otherwise under 89 Ill. Adm. Code 357~~,~~ (Purchase of Service).

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children in a licensed child care facility outside the visual or auditory supervision of facility staff.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services, replacing the CANTS system.

"Seasonal child care program" means a child care facility that operates a seasonal program, such as summer-only or migrant Head Start program, that~~which~~ is subject to licensing by the Department.

"State Central Register" means the child abuse and neglect data system maintained by the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 40].

"Substitute" means a permanent or temporary employee who is used to replace or supplement regular staff.

"Supervising agency" means a licensed child welfare agency, a licensed day care agency, a license exempt agency, or the Department.

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

Section 385.30 Applicability of This Part

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a) Applicability
All licensed child care facilities shall submit completed, signed authorizations for background checks for all persons subject to background checks as defined in Section 385.20.

b) License Renewals
A child care facility license shall not be renewed until the results of the background check (CANTS/SACWIS, Illinois Sex Offender Registry, and criminal history) have been received for the operator of the child care facility. However, if complete, signed authorizations have been submitted and fingerprints obtained for all persons subject to background checks, as defined in Section 385.20, and a check of the CANTS/SACWIS and Illinois Sex Offender Registry is completed, renewal of the license shall not be delayed pending receipt of the results of the criminal background check for other persons subject to background checks.

c) Scope of Background Checks

1) All persons subject to background checks pursuant to this Part shall be processed through the CANTS/SACWIS and the Illinois Sex Offender Registry. Fingerprints of all persons age 17~~18~~ and over shall be submitted to the Illinois State Police via the fingerprint vendor stipulated by the Department for a criminal history check.

2) In addition, foreign nationals who have not resided in Illinois for all of the preceding 3 years shall submit to their prospective employer (if seeking employment) or licensing representative (if seeking a license to operate a child care facility) a copy of their valid passport and current visa. A copy of the valid passport and current visa shall be attached to the authorization for background check submitted to:

Department of Children and Family Services
Central Office of Licensing
406 E. Monroe Street, Station #60
Springfield, Illinois 62701

All facsimile transmissions shall be sent to the Employment FAX Line at (217)785-6368.

3) In addition, each owner of a for-profit corporation, as a condition of license renewal, must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* [5 ILCS 100/10-65(c)]

4) Fingerprints for the following persons age 17~~18~~ and over shall be submitted to the Federal Bureau of Investigation (FBI) for a search of its records for evidence of prior criminal activity:

A) persons who have a record of criminal activity which may impact their suitability for licensure/employment by their own acknowledgment or according to the records of the Illinois State Police; and

B) persons who have resided outside the State of Illinois for any part of the preceding three years.

5) For *prospective foster or adoptive parents or other adult living in the home* who *resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry* and the National Sex Offender Registry. [20 ILCS 505/5(v-2)]

d) A Condition of Employment

1) As a condition of employment in a licensed child care facility in a position which allows access to children, all persons subject to background checks, as defined in Section 385.20, shall complete and sign authorizations for background checks and submit to fingerprinting, if required. This applies to all current and conditional employees subject to background checks, as defined in Section 385.20, and to any individual used as replacement or supplemental staff in the direct care and supervision of children.

2) Complete, signed authorizations for background checks must be submitted to:

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Department of Children and Family Services
Central Office of Licensing
406 E. Monroe Street, Station #60
Springfield, Illinois 62701

All such authorizations must be postmarked within two business days after the person's employment or use in a role as replacement or supplemental staff. All facsimile transmissions shall be sent to the Employment Fax Line at (217) 785-6368.

e) Child Care Facilities that Operate Within a Family Home
If the child care facility operates in a family home, adult members of the household age 17 and older shall be fingerprinted to be screened for prior criminal convictions and current pending criminal charges in accordance with the requirements of this Part. All household members age 13 and over shall be screened for a history of child abuse or neglect and for inclusion in the Illinois Sex Offender Registry. These background checks are required even if members of the household usually are not present in the home during the hours the child care facility is in operation.

f) Programs Operated Under the Auspices of Child Welfare or Day Care Agencies
The background check requirements of this Part apply to:

1) employees of a child welfare agency who are involved in the placement in, licensure of, or supervision of foster family or adoptive homes, relative homes, group homes, child care institutions, youth emergency shelters, or independent living arrangements; and

2) employees of a child welfare agency or day care agency who are involved in the licensure or supervision of licensed day care homes; and

3) persons used as replacement or supplemental staff identified in subsection (f)(1) or (2).

g) Service Providers
As a condition of a contract or agreement, or as otherwise required under 89 Ill. Adm. Code 357, Purchase of Service, the Department may require a person who provides services that allow unsupervised access to children to authorize a

background check under this Part.

h) Issuance of Permits
A permit may be issued when:

1) the facility operator has cleared a complete background check (criminal history, CANTS/SACWIS, and Illinois Sex Offender Registry); and

2) if a for-profit corporation or other for-profit legal entity, the owner has certified that he or she is current or not more than 30 days delinquent in complying with a child support order; and

3) all other persons subject to background checks have been fingerprinted (if required), as verified by a fingerprint receipt, and have obtained their CANTS/SACWIS, and Illinois Sex Offender Registry clearances; and

4) the facility is in compliance with all other applicable licensing requirements for issuance of a permit.

i) Work Study Students
No criminal history check is required unless work study students are used as replacement or supplemental staff, as defined in Section 385.20. However, CANTS/SACWIS and Illinois Sex Offender Registry checks must be completed for all work study students.

j) Volunteers
No background check (CANTS/SACWIS, Illinois Sex Offender Registry, criminal history) is required unless volunteers are used as replacement or supplemental staff, as defined in Section 385.20.

k) Parental Involvement
Parental involvement in a child care facility program does not require a background check unless the parent is used as replacement or supplemental staff, as defined in Section 385.20. Nothing in this Part is intended to prohibit a parent from being left alone unsupervised with only his or her own children.

l) Responsibility for Cooperation
Child care facilities shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when

scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:

1) death in the family of the person; or

2) serious illness of the person or illness in the person's immediate family; or

3) weather or transportation emergencies.

m) Limitations on Criminal Offenders
Persons age 17~~18~~ and over who have been convicted of committing or attempting to commit the offenses in Section 385.60(a) or (b) (when applicable) and when the Department becomes aware of persons age 13 and over who have been tried as an adult and convicted for the crimes identified in Section 385.60(a) or (b) shall not:

1) receive a license from the Department to operate a child care facility or have such a license renewed; or

2) be employed by a child care facility licensed by the Department in a position which allows access to children; or

3) be a member of the household in a family home in which a child care facility operates; or

4) obtain a contract or agreement from the Department to provide services which allow access to children if the requirement for such background checks is a condition of the contract or agreement.

n) Limitations on Perpetrators of Child Abuse/Neglect
Persons who have been indicated as the perpetrator of any of the child abuse/neglect allegations identified in Section 385.50(a) are presumed to be unfit for service that allows access to children. These indicated perpetrators are limited in the same manner as the criminal offenders in subsection (m) unless the Director

or designee has waived in writing the presumption of unsuitability. Such waivers may be requested in writing in accordance with Section 385.50(b).

o) No Charge for Background Checks
There is no charge to license applicants or licensed child care facilities for the background checks which are required by this Part.

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

Section 385.60 Criminal Convictions and Pending Criminal Charges

a) Convictions Which Serve as Bar to Licensure/Employment that Allows Access to Children
Persons who have been convicted of certain serious crimes, identified in Appendix A of this Part, shall not receive a license to operate a child care facility or, if such a person has been licensed to operate a child care facility, the licensing entity shall revoke or refuse to renew such license upon learning that the licensee has been convicted of committing or attempting to commit any of the offenses identified below. In addition, no person who has been convicted of committing or attempting to commit any of the offenses listed below shall either be employed in a licensed child care facility in a position that allows access to children or reside in a family home in which a child care facility operates. This includes persons who have been:

1) declared a sexually dangerous person under the Sexually Dangerous Persons Act [725 ILCS 205] or identified as a sex offender in the Illinois Sex Offender Registry operated by the Illinois State Police; or

2) convicted of committing or attempting to commit any of the offenses specified in Appendix A of this Part that are defined by the Criminal Code of 1961 [720 ILCS 5] or any earlier Illinois criminal law or code (See Section 4.2 of the Child Care Act of 1969 [225 ILCS 10/4.2]);or

3) convicted of committing or attempting to commit an offense in another state, the elements of which are similar and bear a substantial relationship to any of the criminal offenses specified in Appendix A of this Part.

b) Special Provisions for Foster Family Homes
In addition to the provisions set forth in subsection (a), no applicant may be

licensed by the Department to operate a foster family home, and no person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Section 4.2 of the Child Care Act of 1969 [225 ILCS 10/4.2], and Section 5(v-1) of The Children and Family Services Act [20 ILCS 505/5(v-1)], or who is included in the Illinois Sex Offender Registry (unless the offender is a ward of the State of Illinois placed in the foster home by the Department or its contractual agent).

c) Special Provisions for Service Providers
As a condition of a contract or agreement, or as otherwise required under 89 Ill. Adm. Code 357, Purchase of Service, the Department shall require a person who provides services that allow unsupervised access to children to authorize a background check under this Part.

d) Assessment of Criminal Convictions
Except as specified in subsections (a) and (b) of this Section, an individual convicted of a crime will not automatically be prohibited from licensure, renewal of a license, or employment in a child care facility, from residing in a family home in which a child care facility operates, or from obtaining a contract with the Department to provide services which allow access to children as part of their duties. Instead, the following shall be considered:

1) the nature of the crime for which the individual was convicted;

2) the circumstances surrounding the commission of the crime, including the age of the individual, that would demonstrate a low likelihood of repetition;

3) the period of time that has elapsed since the crime was committed;

4) the number of crimes for which the individual was convicted;

5) evidence of rehabilitation such as successful participation in therapy since conviction;

6) commutation of the sentence by the Governor or granting of a pardon;

7) overturn of the conviction upon appeal;

8) character references;

9) the relationship of the crime to the capacity to care for children or to have access to children cared for in a child care facility;

10) Whether the employee/foster parent disclosed whether he or she had a criminal background and the circumstances of the conviction; and

11) The development of a supervisory or monitoring plan that the Department has approved.

e) Assessment of Pending Criminal Charges
When an employer is informed that an employee has a pending charge for a crime listed as a barred offense in subsection (a), the employer shall develop a protective plan addressing unsupervised access to children until the charge has been resolved. An individual against whom criminal charges are pending shall not be automatically prohibited from licensure, renewal of a license, or employment in a child care facility, residing in a family home in which a child care facility operates, or obtaining a contract with the Department to provide services which allow access to children (as limited by 89 Ill. Adm. Code 357, Purchase of Service) because of the pending criminal charges. In those instances, the following shall be considered:

1) the seriousness and nature of the charges which are pending including a determination of whether the charges are among those listed in Appendix A of this Part that serve as a bar to licensure or employment in a position that allows access to children;

2) the circumstances surrounding the incident that led to the criminal charge;

3) the relationship of the charges to the ability to care for children or to have access to children and confidential information in a child care facility;

4) whether the individual has ever been convicted of or charged with crimes of a similar nature; and

5) character references and other information submitted by or on behalf of the appellant or any other person, especially about the suitability of the

individual to care for children.

f) Notification of Hiring Decision
Child care facilities shall notify the Department in writing of their decision regarding the employment of a person with a criminal history. Such notice shall be postmarked within 30 days after receipt of the information from the Department about the individual's criminal history. If the facility chooses to retain the employee, it must notify the Department of this decision and specify in the notice the operating hours of the facility, the duties of the employee, and the hours the employee will be working. The decision of the employer is final, subject to review under the personnel policies of its governing body. Such hiring decisions may not be appealed to the Department of Children and Family Services.

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

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Section 385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates

a) Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates
If any person subject to background checks has been included in the Illinois Sex Offender Registry or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 [720 ILCS 5] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to: receiving a license or permit to operate as a child care facility and renewal of an existing license to operate a child care facility; residing in a family home in which a child care facility operates; obtaining employment or continuing in employment in a licensed child care facility which allows access to children as part of the duties; and obtaining a contract or agreement providing services on behalf of the Department that allows unsupervised access to children.

In addition to the list of crimes in this Appendix A, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Appendix A, Criminal Convictions Which Prevent Licensure, of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, which is a more inclusive list of crimes.

The offenses that serve as a bar to licensure, residence in a family home in which a child care facility operates, employment that allows access to children in any child care facility subject to licensing, or providing services that allow unsupervised access to children include:

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

- *Murder*
- *Solicitation of murder*
- *Solicitation of murder for hire*
- *Intentional homicide of an unborn child*

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- *Voluntary manslaughter of an unborn child*
- *Involuntary manslaughter*
- *Reckless homicide*
- *Concealment of a homicidal death*
- *Involuntary manslaughter of an unborn child*
- *Reckless homicide of an unborn child*
- *Drug induced homicide*

KIDNAPPING AND RELATED OFFENSES

- *Kidnapping*
- *Aggravated kidnapping*
- *Aggravated unlawful restraint*
- *Forcible detention*
- *Child abduction*
- *Aiding and abetting child abduction*
- *Harboring a runaway* [225 ILCS 10/4.2(b)]

SEX OFFENSES UNDER ARTICLE 11 OF THE CRIMINAL CODE OF 1961, EXCEPT OFFENSES DESCRIBED IN SECTIONS 11-7, 11-8, 11-12 AND 11-13

- *Indecent solicitation of a child*
- *Indecent solicitation of an adult*
- *Public indecency*
- *Sexual exploitation of a child*
- *Custodial sexual misconduct*
- *Presence within school zone by child sex offenders*
- *Approaching, contacting, residing, or communicating with a child within a public park zone by child sex offenders*
- *Sexual relations within families*
- *Prostitution*
- *Soliciting for a prostitute*
- *Soliciting for a juvenile prostitute*
- *Solicitation of a sexual act*
- *Pandering*
- *Keeping a place of prostitution*
- *Keeping a place of juvenile prostitution*
- *Patronizing a prostitute*

- *Patronizing a juvenile prostitute*
- *Pimping*
- *Juvenile pimping*
- *Exploitation of a child*
- *Obscenity*
- *Child pornography*
- *Harmful material*
- *Tie-in sales of obscene publications to distributors*
- *Posting of identifying information on a pornographic internet site* [720 ILCS 5/Art. 11]

BODILY HARM

- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of a child*
- *Tampering with food, drugs, or cosmetics*
- *Hate crime*
- *Stalking*
- *Aggravated stalking*
- *Threatening public officials*
- *Home invasion*
- *Vehicular invasion*
- *Drug induced infliction of great bodily harm*
- *Criminal sexual assault*
- *Aggravated criminal sexual assault*
- *Predatory criminal sexual assault of a child*
- *Criminal sexual abuse*
- *Aggravated sexual abuse*
- *Criminal transmission of HIV*
- *Criminal abuse or neglect of an elderly or disabled person*
- *Child abandonment*
- *Endangering the life or health of a child*
- *Ritual mutilation*
- *Ritualized abuse of a child* [225 ILCS 10/4.2(b)]

Final approval for licensure shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault or

homicide, but not including other physical assault or battery, or if there is a felony conviction for physical assault, battery or a drug-related offense committed within the past 5 years. (See 20 ILCS 505/5v-1 and v-2.)

b) Additional Convictions that Bar Licensure of or Employment in a Child Care Facility

In addition to the requirements of subsection (a), *no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar to and bear a substantial relationship to any of the following offenses*:

OFFENSES DIRECTED AGAINST THE PERSON

BODILY HARM

- *Felony aggravated assault*
- *Vehicular endangerment*
- *Felony domestic battery*
- *Aggravated battery*
- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of an unborn child*
- *Aggravated battery of a senior citizen*
- *Intimidation*
- *Compelling organization membership of persons*
- *Abuse and gross neglect of a long term care facility resident*
- *Felony violation of an order of protection*

OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- *Felony unlawful use of weapons*
- *Aggravated discharge of a firearm*
- *Reckless discharge of a firearm*
- *Unlawful use of metal piercing bullets*
- *Unlawful sale or delivery of firearms on the premises of any school*
- *Disarming a police officer*

- *Obstructing justice*
- *Concealing or aiding a fugitive*
- *Armed violence*
- *Felony contributing to the criminal delinquency of a juvenile*

DRUG OFFENSES

- *Possession of more than 30 grams of cannabis*
- *Manufacture of more than 10 grams of cannabis*
- *Cannabis trafficking*
- *Delivery of cannabis on school grounds*
- *Unauthorized production of more than 5 cannabis sativa plants*
- *Calculated criminal cannabis conspiracy*
- *Unauthorized manufacture or delivery of controlled substances*
- *Controlled substance trafficking*
- *Manufacture, distribution or advertisement of look-alike substances*
- *Calculated criminal drug conspiracy*
- *Street gang criminal drug conspiracy*
- *Permitting unlawful use of a building*
- *Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property*
- *Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances*
- *Delivery of controlled substances*
- *Sale or delivery of drug paraphernalia*
- *Felony possession, sale, or exchange of instruments adapted for use of a controlled substance or cannabis by subcutaneous injection*
- *Felony possession of a controlled substance* [225 ILCS 10/4.2(b-1]

c) Exception Applicable to Child Care Facilities Other than Foster Family Homes
Notwithstanding subsection (a), *the Department may issue a new child care facility license or may renew the existing child care facility license of an applicant, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b), or the Department may approve the employment of a person by a child care facility who was convicted of an offense described in subsection (b), provided that all of the following requirements are met*:

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1) *The relevant criminal offense or offenses occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant or prospective employee has passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense;*

2) *The Department must conduct a background check and assess all convictions and recommendations of the child care facility in accordance* with Section 385.60(d), (e) and (f) and *determine if a waiver is applicable* in accordance with subsection (c)(1);

3) *The applicant meets all other requirements and qualifications to obtain a license to operate the pertinent type of child care facility.* [225 ILCS 10/4.2(b-2)

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

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Section 385.APPENDIX B Matrix of Persons Subject to Background Checks Under Part 385

Type of Individual	Criminal Check	IllinoisSex Offender Registry	Child Abuse/ Neglect Check	Child Support	Explanation
Operator	Yes	Yes	Yes	Yes	Criminal check via fingerprints. Delinquent child support check applies only to for-profit entities.
Employee • Age 17~~18~~ and over • Under age 18	Yes No	Yes Yes	Yes Yes	No No	For persons age 17~~18~~ and over, the criminal check is done via fingerprints.
Others in Family Home • Age 17~~18~~ and over • Ages 13 through 18	Yes No	Yes Yes	Yes Yes	No No	For persons age 17~~18~~ and over, the criminal check is done via fingerprints.
Individual Used to Replace or Supplement Staff • Age 17~~18~~ and over • Under age 18	Yes No	Yes Yes	Yes Yes	No No	For persons age 17~~18~~ and over, the criminal check is done via fingerprints.
Service provider for the Department who has access to children • Age 17~~18~~ and over • Under age 18	Yes No	Yes Yes	Yes Yes	No No	For persons age 17~~18~~ and over, the criminal check is done via fingerprints.

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Type of Individual	Criminal Check	Child Sex Offender Registry	Child Abuse/ Neglect Check	Child Support	Explanation
Work Study Student	No	Yes	Yes	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required, also.
Contractual Staff Hired by the Child Care Facility	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.
Volunteers	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.
Parents	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.

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

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1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3)

Section Numbers:	Proposed Action:
100.7040	Amendment
100.7300	Amendment
100.7310	Amendment
100.7320	Amendment
100.7325	New Section
100.7330	Amendment
100.7350	New Section
100.7360	New Section
100.7370	New Section

4) Statutory Authority: 35 ILCS 5/704, 5/704A and 5/1401

5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides guidance on the application of the Illinois income tax withholding requirements for employers, as amended in Public Act 95-0008.

6) Published studies or reports and sources of underlying data used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

Section Number:	Proposed Action:	IL Register Citation:
100.2406	New Section	31 Ill. Reg. 15240; November 16, 2007
100.3500	Amendment	32 Ill. Reg. 5936; April 11, 2008
100.9730	New Section	32 Ill. Reg. 5936; April 11, 2008
100.2655	New Section	32 Ill. Reg. 6923, April 25, 2008
100.2196	Amendment	32 Ill. Reg. 7036, May 2, 2008
100.2199	Amendment	32 Ill. Reg. 7257, May 9, 2008

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11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton
Deputy General Counsel − Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/524-3951

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses, small municipalities and not-for-profit corporations with employees will receive guidance on the application of the new income tax withholding statutes.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

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Section
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) − Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Current Net Operating Losses: Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Carrybacks and Carryforwards
100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) − Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) − Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES OCCURRING ON OR AFTER DECEMBER 31, 1986

Section
100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or

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After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2430 Addition and Subtraction Modifications for Transactions with 80-20 Companies
100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section
100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND

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APPORTIONMENT OF BASE INCOME

Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3015 Business Income Election (IITA Section 1501)
100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section
100.3100 Compensation (IITA Section 302)
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AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective

June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg.

16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. _____, effective _____.

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section 100.7040 Employer Registration (IITA Section 701)

Every employer required to deduct and withhold Illinois income tax must register with the Department of Revenue~~ by filing Form NUC-1 Illinois Business Taxpayer Application for Registration~~. Each registration application of an employer that has been assigned a federal identification number must contain the employer's federal identification number. If an employer has not been issued a federal employer's identification number, the employer must notify the Department within a reasonable time after its federal employer's identification number has been issued.

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

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7300 Returns and Payments of Income Tax Withheld from~~From~~ Wages (IITA Sections~~Section~~ 704 and 704A)

a) Quarterly returns. Except as otherwise provided in Section 100.7310 or 100.7350~~below~~, every employer required to deduct and withhold tax on compensation paid in Illinois shall make a return for the first calendar quarter in which the~~such~~ tax is deducted and withheld and for each subsequent calendar quarter (whether or not compensation is paid in that quarter~~therein~~) until a final return is filed. (See IITA Sections 704(c) and 704A(b).)~~Form IL-941, Employer's Quarterly Illinois Withholding Tax Return, is prescribed for making the return required under this paragraph. Monthly and quarter-monthly tax payments may also be required. See subsections (c) and (d) below. In some circumstances, only a single IL-941 and payment of withheld taxes will be required. See Section 100.7310 below.~~

b) Retention of copies of combined W-2.

1) For calendar years prior to 2008.

A) Every employer required under this Section or Section 100.7310 or 100.7350~~subsection (a) above~~ to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200~~ above~~ to be furnished by the employer with respect to compensation paid during the calendar year. For calendar years prior to 2008, every~~Every~~ employer shall maintain copies of the combined W-2 forms for three years from the due date of the IL-W-3 for that period. For each calendar year after 2007, every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.

B~~2~~) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d) above), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld~~ (Form IL-941)~~ for the period ending December 31 of the year in which the correction is made, or for any period in the~~such~~ year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.

C~~3~~) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s. Employers chosen by the Department will be required to file W-2s in the same manner they are required to file W-2s federally.

i~~A~~) Employers with more than 250 employees in the State of Illinois will be required to provide the W-2s on magnetic tape, diskette, or cartridge meeting the specifications required by the Social Security Administration (see 26 CFR 301.6011-2~~ (1994)~~).

iiB) All other employers may provide the W-2s on magnetic media or paper.

D4) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.

2) For calendar years after 2007, persons who are required to withhold Illinois income tax from 1,000 or more employees during the year and who are required to file copies of the W-2s on magnetic media under 26 CFR 301.6011-2 shall file copies of the W-2s with the Department using the same magnetic media used for their federal filing no later than March 31 of the year following the year of the withholding, unless a later due date is prescribed under federal law for filing the copies of the W-2, in which case filing of copies with the Department shall be due on the same date. (See IITA Sections 704(f) and 704A(f).)

3) For calendar years after 2007, with respect to copies of W-2s other than those required to be filed on magnetic media under subsection (b)(2):

A) Every employer required under this Section or Section 100.7310 or 100.7350 to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200 to be furnished by the employer with respect to compensation paid during the calendar year. Every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.

B) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d)), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld for the period ending December 31 of the year in which the correction is made, or for any period in the year for which the return is made as a final

return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.

C) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s.

D) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.

c) Payments of amounts withheld prior to January 1, 2008. Except as otherwise provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld prior to January 1, 2008:

1) Quarter-monthly tax payments. Every employer required to file a quarterly return under subsection (a) ~~above~~ shall also file a quarter-monthly tax payment form if the amount of tax deducted and withheld during any quarter-monthly period plus the amount previously withheld and not remitted to the Department exceeds $1,000~~.00~~. An employer need not file a quarter-monthly form if no quarter-monthly payment is due. ~~Form IL-501 is prescribed for use with the payments required under this paragraph. Quarter-monthly periods end on the 7th, 15th, 22nd and last day of each month.~~ Certain taxpayers with tax liabilities exceeding statutory thresholds are required to pay their tax liabilities by electronic funds transfer. 86 Ill. Adm. Code 750 sets forth the rules of the Department concerning payment of taxes by electronic funds transfer, as well as the statutory payment thresholds.

2)~~d)~~ Monthly tax payments. Every employer required to file a quarterly return under subsection (a) ~~above~~ shall also file a monthly tax payment form if the amount of tax deducted and withheld during any calendar month plus the amount previously withheld and not remitted to this Department exceeds $500~~.00~~ including amounts previously withheld and not remitted to the Department, but does not exceed $1,000.~~00.~~ An employer need not file a monthly form if no monthly payment is due. No monthly form is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly form for the third month in a calendar quarter shall be reported on the quarterly return filed for that

quarter and no monthly form need be filed for that~~such~~ month. ~~Form IL-501 is prescribed for use with the payments required under this subsection.~~

d) Payments of amounts withheld on or after January 1, 2008. Except as provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld on or after January 1, 2008:

1) Semi-weekly tax payments.

A) An employer who withheld or was required to withhold more than $12,000 during the look-back period for a calendar year must make semi-weekly payments for the entire calendar year.

B) An employer who withholds or is required to withhold more than $12,000 in any quarter of a calendar year is required to make semi-weekly payments of amounts withheld or required to be withheld during each remaining quarter of that calendar year and for the subsequent calendar year. (See IITA Section 704A(c)(1).)

2) Monthly tax payments. An employer who is not required to make semi-weekly payments shall make monthly payments of taxes withheld or required to be withheld. (See IITA Section 704A(c)(3).)

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

Section 100.7310 ~~Quarterly~~ Returns Filed and Payments Made on Annual Basis (IITA Section 704)

a) With respect to taxes withheld or required to be withheld prior to January 1, 2008:

1) In general. Effective January 1, 2005, if an employer had no obligation to deduct and withhold Illinois income tax in the previous calendar year or if the amount of tax deducted and withheld during the previous calendar year was less than $500 and, in either case, the amount that will be deducted and withheld in the current calendar year will be less than $500, the employer may file an annual return for the current calendar year or for any period for which a return is made as a final return. No application need be made to file an annual return. The return filed for such period shall report the amount of tax deducted and withheld during the period and not

previously remitted. Form IL-941 is prescribed for making the return authorized under this subsection (a). An employer shall use Form W-3 to submit the information contained on the combined Form W-2, in the same manner as required under Section 100.7300.

2)~~b)~~ Duration of annual filing status. Authority to file a return pursuant to this Section shall remain in effect until that time during any calendar year when the amount of tax deducted and withheld equals or exceeds $500. When, during any ~~such~~ calendar year, the amount deducted and withheld equals or exceeds $500, an employer must file a quarterly return, as required under Section 100.7300(a), for the quarter in which that~~such~~ event occurs and for all subsequent quarters until the requirements of subsection (a)(1) are again met by the employer.

b) With respect to any calendar year beginning on or after January 1, 2008:

1) An employer who has timely filed all returns due under IITA Sections 704 or 704A during the look-back period for a calendar year, reporting on those returns a total liability of $1,000 or less, and who timely paid the amounts reported, may file a single annual return for that calendar year and pay the tax required to be withheld during that calendar year when that return is due. An employer who was not required to file returns during the look-back period is not eligible under this subsection (b)(1) to make annual filings or payments. (See IITA Section 704A(d)(1).)

2) Any employer that is eligible to make an annual filing and payment for a calendar year under subsection (b)(1) and who withholds or is required to withhold more than $12,000 in any quarter of that year must:

A) make a quarterly return for that quarter, reporting and paying all amounts withheld or required to be withheld during the year through the end of that quarter with that return;

B) make a quarterly return for each subsequent quarter of that calendar year and for each quarter of the following calendar year; and

C) make semi-weekly payments of taxes withheld or required to be withheld during the remaining quarters of that calendar year and during the following calendar year. (See IITA Section 704A(c)(2).)

~~e) Cross reference. See IITA Sections 1002(c) and 1002(d), the UPIA and 86 Ill. Adm. Code 700 for penalties for failure to file a return and remit the tax required by this Act.~~

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

Section 100.7320 Time for~~For~~ Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)

a) Quarterly return. Each return required under Section 100.7300(a)~~by paragraph (a) of 86 Ill. Adm. Code 100.7300~~ shall be filed on or before the last day of the first calendar month following the calendar quarter for which the~~such~~ return is made.

b) Quarter-monthly tax payments. Quarter-monthly periods end on the 7th, 15th, 22nd, and last day of each month. Quarter-monthly forms required under Section 100.7300(c)(1)~~by paragraph (c) of 86 Ill. Adm. Code 100.7300~~ shall be filed on or before the third banking day following the close of the quarter-monthly period. ~~Banking days do not include Saturdays, Sundays, legal holidays, or local bank holidays.~~ Whenever a quarter-monthly payment is due that~~which~~ includes amounts withheld in a prior calendar quarter, separate quarter-monthly forms must be submitted. See the note in the example in subsection (d)~~ below~~.

c) Monthly tax payments. Monthly returns and payments~~forms~~ required by Section 100.7300(c)(2)~~paragraphs (c) and (d) of 86 Ill. Adm. Code 100.7300~~ shall be made~~filed~~ on or before the 15th day of the second and third months of each calendar quarter for amounts withheld during the first and second months of the quarter, respectively, and on or before the due date prescribed in subsection (a) for filing the return for the quarter for amounts withheld during the third month of the quarter. (See IITA Section 704(c).)

d) Example. The provisions of this Section with respect to taxes required to be withheld prior to January 1, 2008 can be partially illustrated as follows:

Withholding Period	Amount Withheld	Amount of Payment/Due Date

Feb. 1-7	$ 900	Add to next period
Feb. 8-15	900	$1,800 by Feb. 18*
Feb. 16-22	1,010	$1,010 by Feb. 25*
Feb. 23-28	900	Add to next period
Mar. 1-7	0	$900 by Mar. 15*
Mar. 8-15	600	Add to next period
Mar. 16-22	600	$1,200 by Mar. 25*
Mar. 23-31	400	Add to next period
Apr. 1-7	800	$1,200 by Apr. 10* NOTE: separate IL-501s must be used; one to report the $400 withheld for the last quarter-monthly period of March, and the other to report the $800 withheld for the first quarter-monthly period of April.
Apr. 8-15	700	Add to next period
Apr. 16-22	200	Add to next period
April 23-30**	0	$900 to next period
May 1-7	110	$1,010 by May 10*

* With Form IL-501 (employee withholding).
** Form IL-941 (employee withholding) due April 30.

e) Extension of time for filing returns. An extension of time for filing the statements and returns required to be filed under this subsection shall be granted upon approval of a similar extension granted by the Internal Revenue Service (but in no event to exceed six months) for filing the federal statements. The extension shall be for the same period as granted by the Internal Revenue Service and shall be granted by the Department upon submission of a copy of the federal application and approval of an extension.

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

Section 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)

a) Quarterly return. Each return required under Section 100.7300(a) shall be filed on or before the last day of the first calendar month following the calendar quarter for which the return is made. (See IITA Section 704A(b).)

b) Monthly payments. Monthly payments required under Section 100.7300(d)(2) are due on or before the 15th day of the month following the month in which the tax was withheld or required to be withheld. (See IITA Section 704A(c)(3).)

c) Semi-weekly payments.

1) Semi-weekly payments required under Section 100.7300(d)(1) or 100.7310(b)(2)(B) are due:

A) on or before each Friday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Saturday, Sunday, Monday or Tuesday;

B) on or before each Wednesday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Wednesday, Thursday or Friday. (See IITA Section 704A(c)(1).)

2) If a payment due on a Friday or Wednesday under this subsection (c) would include amounts withheld in two different quarters, a separate payment must be made for the amounts withheld in each quarter;

3) Under 26 CFR 31.6302-1(c)(2)(iii), semi-weekly depositors are given at least three banking days following the close of the semi-weekly period by which to deposit taxes during the semi-weekly period. Thus, if any of the three weekdays following the close of a semi-weekly period is a holiday on which banks are closed, the employer has an additional banking day by which to make the required deposit. For example, if the Monday following the close of a Wednesday to Friday semi-weekly period is a holiday on which banks are closed, the required deposit for the semi-weekly period may be made by the following Thursday rather than the following Wednesday. Under IITA Section 704A(d)(2), the Department may provide by regulation that any payment due under this subsection (c) *is deemed to be timely to the extent paid by electronic funds transfer on or before the due date for deposit of federal income taxes withheld from, or federal employment taxes due with respect to, the wages from which the Illinois*

taxes were withheld. Accordingly, employers making electronic payments of taxes withheld may use the due dates prescribed in 26 CFR 31.6302-1(c)(2)(iii).

d) Annual returns. Annual returns are due on or before:

1) January 31 of the year following the calendar year for which the return is made, in the case of an annual return under Section 100.7310(b)(1) (See IITA Section 704A(d)(1).); or

2) the 15th day of the 4th month following the close of the taxpayer's tax year, in the case of an annual return under Section 100.7350. (See IITA Section 704A(e).)

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

Section 100.7330 Payment of Tax Required to be Shown Due on a Return~~Deducted And Withheld~~ (IITA Sections~~Section~~ 704 and 704A)

The amount of tax required to be shown to be due on each return required to be filed under IITA Section 704 or 704A shall be due on or before the date on which the~~such~~ return is required to be filed, except to the extent that amount has been paid to the Department pursuant to a provision requiring payment prior to that date.

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

Section 100.7350 Domestic Service Employment (IITA Sections 704 and 704A)

a) *On and after January 1, 1998, every employer who deducts and withholds or is required to deduct and withhold tax from a person engaged in domestic service employment, as that term is defined in IRC section 3510, may comply with the payment and reporting requirements of IITA Section 704 by filing an annual return and paying the taxes required to be deducted and withheld on or before the 15th day of the fourth month following the close of the employer's taxable year.* (IITA Sections 704(e-5) and 704A(e))

b) All taxes withheld from compensation of domestic employees may be paid and reported under this provision, regardless of the amount of taxes withheld and regardless of whether the employer has other employees and must pay and report

taxes withheld from their compensation under other provisions of IITA Sections 704 and 704A.

c) Employers wishing to pay and report on an annual basis taxes withheld from domestic employees must register to do so with the Illinois Department of Employment Security, and use the form required by the Illinois Department of Employment Security to report the Illinois income taxes withheld and unemployment insurance contributions.

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

Section 100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

For purposes of the provisions of IITA Sections 704 and 704A:

a) Date of withholding. Income tax is withheld on the date payment of compensation is made to the employee. (See IRS Revenue Ruling 74-126.)

EXAMPLE: An employer pays employees bi-monthly on the last day of the month for services rendered through the 15th of the month and on the 15th of the month for services rendered from the 16th of the previous month through the end of the previous month. Taxes withheld from compensation earned in the second half of May and paid on June 15 are withheld on June 15 for purposes of determining when the taxes must be reported and paid over to the Department.

b) Quarter-monthly period. *A quarter-monthly period ends on the 7th, 15th, 22nd and last day of each calendar month.* (IITA Section 704(b)) These dates are not affected by weekends or holidays. That is, the 7th of a month is the end of a quarter-monthly period, even if it is a Saturday, Sunday or holiday.

c) Banking day. *Saturdays, Sundays, legal holidays and local bank holidays are not banking days.* (IITA Section 704(b))

d) Employer, employee and compensation. The term "employer" includes all persons required to withhold Illinois income tax; "employee" includes all persons from whom Illinois income tax is required to be withheld; and "compensation" includes all payments from which Illinois income tax is withheld or required to be withheld under IITA Section 711(a). For purposes of determining when monthly,

quarter-monthly or semi-weekly payments must be made and whether an employer is required to pay by electronic funds transfer, the amount of tax withheld or required to be withheld by the employer shall include all taxes withheld or required to be withheld under Article 7 of the IITA, other than taxes withheld from domestic employees that are reported and paid pursuant to Section 100.7350. (See IITA Section 711(a) and Section 2505-210 of the Department of Revenue Law [20 ILCS 2505/2505-210].)

e) Look-back period. The term "look-back period" for a calendar year means the 12-month period ending June 30 of the preceding calendar year. For example, the look-back period for calendar 2008 is the period from July 1, 2006 through June 30, 2007.

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

Section 100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

a) Failure to file returns. *In addition to any other penalties imposed by the IITA, an employer failing to file a quarterly return or the annual transmittal form for wage and tax statements required by IITA Section 704 or regulations promulgated under the statute shall incur a penalty for each such failure as prescribed by UPIA Section 3-3* [35 ILCS 735/3-3]. (IITA Section 1104) See 86 Ill. Adm. Code 700.300 for more guidance on the penalty for failure to file quarterly and annual returns.

b) Failure to pay. UPIA Section 3-3(b), (b-5), (b-10), (b-15) and (b-20) provides for penalties for failure to pay amounts shown due on a return on or before the due date for payment. Pursuant to 86 Ill. Adm. Code 700.500(c), any payment of taxes withheld during a quarter shall be applied against the earliest unpaid liability for that quarter under Section 100.7320(b) or (c) or 100.7325(b) or (c).

EXAMPLE 1: An employer required to make semi-weekly payments is required to deposit $500 on the 10th, 18th and 25th day of a month and on the 3rd day of the following month. Employer makes a payment of $700 on the 15th of the month and pays the remaining $1,300 of the liability on the 15th of the following month. No other payments are made during that period. $500 of the payment on the 15th of the month is applied in satisfaction of the amount due on the 10th, and the remaining $200 is applied toward the amount due on the 18th. The remainder of

the amount due on the 18th and the remaining amounts due are unpaid until the 15th of the following month. Any amount withheld in the following month and due on or before the 15th of that month is subject to late payment penalty because the payment made on the 15th is applied to amounts due in the first month.

EXAMPLE 2: The employer in Example 1 makes payments of $500 on the 18th and 25th days of the month and on the 3rd of the following month. The balance is paid on the 15th of the following month. The payment made on the 18th is applied to the amount due on the 10th, the payment made on the 25th is applied to the amount due on the 18th, and the payment made on the 3rd is applied to the amount due on the 25th. The penalty for late payment will therefore apply to all four amounts.

c) Failure to withhold. *If an employer fails to deduct and withhold any amount of tax as required under Article 7 of the IITA, and thereafter the tax on account of which such amount was required to be deducted and withheld is paid, such amount of tax shall not be collected from the employer, but the employer shall not be relieved from liability for penalties or interest otherwise applicable in respect of such failure to deduct and withhold.* (IITA Sections 706 and 713) The amount required to be deducted and withheld during a year shall be considered paid by the employee if the employee pays his or her entire Illinois income tax liability for that year, even if that liability is less than the amount required to be deducted and withheld by the employer. Any employer who fails to deduct and withhold the required amount of tax shall be liable for any underpayment of tax by the employee (excluding interest and penalties imposed on the employee), up to the amount the employer improperly failed to deduct and withhold, together with interest and penalties for failure to deduct and withhold; provided that the amount of tax due from the employee shall not be collected more than once under this provision.

d) Personal liability penalty. *Any person required to collect, truthfully account for, and pay over the tax required to be paid over under Article 7 of the IITA who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof shall, in addition to other penalties provided by law, be liable for the penalty imposed by UPIA Section 3-7.* (IITA Section 1002(d)) (See 86 Ill. Adm. Code 700.340.)

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Relocation Assistance Services and Payments Program for State Highway Projects

2) Code Citation: 92 Ill. Adm. Code 518

3)

Section Numbers:	Proposed Action:
518.10	New Section
518.20	New Section
518.30	New Section
518.40	New Section

4) Statutory Authority: Implementing Sections 3-107.1 through 3-107.1f and Section 4-511, and authorized by Section 3-107.1e, of the Illinois Highway Code [605 ILCS 5/3-107.1 through 3-107.1f and 4-511]; by Section 5-675 of the Civil Administrative Code of Illinois [20 ILCS 5/5-675]; by Sections 2, 2a, 3, 4 and 5 of the Displaced Person Relocation Act [310 ILCS 40/2, 2a, 3, 4 and 5]; and by Section 10-5-62 of the Eminent Domain Act [735 ILCS 30/10-5-62]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to promulgate a new, reorganized and updated Part on the relocation assistance and payments program for highway projects while simultaneously proposing to repeal the current rules, notice and text of which appear elsewhere in this issue of the *Illinois Register*.

On January 4, 2005, at 70 FR 590 - 638, the Federal Highway Administration revised "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs" (49 CFR 24).The federal regulations set forth requirements for implementing the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, as amended (the Uniform Act) [42 USC 4601]. The Uniform Act applies to all acquisitions of real property or displacements of persons resulting from federal or federally-assisted programs or projects.

The Uniform Act also requires state agencies to establish rules and procedures and make interpretations to implement the provisions of the Uniform Act. Therefore, by this rulemaking, the Illinois Department of Transportation, Division of Highways (the Division), is proposing to incorporate by reference the provisions of 49 CFR 24, except Subpart B, as of October 1, 2007, and to further define the review procedures when an aggrieved person believes the Division failed to properly consider his/her eligibility for relocation assistance advisory services, payments, or the amount of a payment required

under this Part. Additionally, the Division is proposing to add additional definitions not covered under 49 CFR 24 that are applicable to this Part. Upon adoption, this rulemaking will put the Division in compliance with the requirements of the Uniform Act and 49 CFR 24 and will help assure federal participation on federally-assisted highway projects.

Following are summaries of changes to 49 CFR 24 that will be incorporated by reference upon adoption of this rulemaking.

At 49 CFR 24, Subpart C – General Relocation Requirements:

- Planning requirements for business sites have been expanded resulting in the business requirements being more in line with those of residential properties.
- Relocation advisory services have been expanded for businesses, including the requirement to interview a business; however, the Division has always interviewed businesses so this is not a change for the Division.
- Clarification that an agency cannot propose or request a waiver of benefits or assistance. The agency may accept a written waiver for some or all benefits or assistance; but, the waiver must be voluntarily provided by the displaced person and must be in writing, signed and dated. This provision allows the displaced person another option other than refusal to accept assistance or claim benefits.
- Relocation payments or assistance may not be made to illegal aliens unless the person can demonstrate exceptional and extremely unintended hardship, as defined by 49 CFR 24.

At 49 CFR 24, Subpart D – Moving Payments:

- Residential moves are not eligible to receive the lower of two bids. Residential moves are subject to payment based on actual expenses incurred using a commercial mover; or, based on a self move that includes several criteria subject to approval before payment can be made.
- Mobile home moves are subject to the same requirements as other residential moves.
- Reimbursement for searching expenses was increased to $2,500.
- Reimbursement payment for a dormitory room was increased from $50 to $100.

At 49 CFR, Subpart E – Replacement Housing Payments

- Reimbursement for a "professional home inspection" was added to the listing of eligible incidental expenses. The Division formerly paid this expense under "certification of soundness".
- When determining a rental replacement housing supplement for a 180-day owner who chooses to rent a replacement property, the estimated rent used for the computation of the payment shall be based on the market rent for the acquired dwelling. The Division has always based the computation on the market rent for the acquired dwelling so this is not a change for the Division.
- Concerning the base monthly rental for a displacement dwelling, the 30% rule was changed from "30% of the average gross household income" to "30% of the displaced persons average monthly gross household income if the amount is classified as "low income" by the US Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Program."
- A down payment computation less than the $5,250 maximum payment may be increased to $5,250 as long as it is applied in a uniform and consistent manner so that all eligible displaced persons in like circumstances are treated equally.
- The provision that allowed an agency to deduct from the relocation payment any rent payment the displaced person owes has been removed.

At 49 CFR 24, subpart F – Mobile Homes:

- More specificity has been added concerning applicability of the rules to mobile homes.
- A provision covering the partial acquisition of a mobile home has been added. Specifically, if the agency determines that a mobile home located on the remaining part of the property must be moved as a direct result of the project, the occupant shall be considered a displaced person and entitled to relocation payments and assistance under the rule.

Other differences between the repealed rule and the new rule due to policy decisions made by the Division:

- Sections 518.500 and 518.505 have been revised and combined into Section 518.40 in the new rule. The review process remains essentially the same except revisions have been made to reflect the Division of Highways' reorganization. Some of the time frames have been revised. An aggrieved person will have 90 days, rather than 60 days, from the date of written notification of the District's determination to file a request for review of the determination. Then, an

aggrieved person will have 30 days from notification of the Regional Engineer's decision to request a final review with the Director. Under the current rule, there is no time period specified for a final review.

- Several definitions have been revised to reflect the reorganization of the Division of Highways and several new definitions were added to the new Part again due to the reorganization.
- Several definitions have been deleted; such as, "FHWA", "Right-of-Way", and "Subsidiary Project Office".

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? Yes

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will affect units of local government that utilize federal funds in any portion of their highway project; or if their project is part of the State highway system.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. Richard W. Hunter, Bureau Chief
Illinois Department of Transportation
Division of Highways, Bureau of Land Acquisition
2300 South Dirksen Parkway, Room 210
Springfield, Illinois 62764

217/782-6243

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

217/524-3838

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking applies to all displaced persons who move from real property, or move personal property from real property, as a result of a state highway project. Therefore, small businesses will not be affected any differently than any other person or entity impacted by this Part.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 518
RELOCATION ASSISTANCE SERVICES AND PAYMENTS PROGRAM
FOR STATE HIGHWAY PROJECTS

Section
518.10 Purpose
518.20 Definitions
518.30 Incorporation by Reference
518.40 Review Procedures

AUTHORITY: Implementing Sections 3-107.1 through 3-107.1f and Section 4-511, and authorized by Section 3-107.1e, of the Illinois Highway Code [605 ILCS 5/3-107.1 through 3-107.1f and 4-511]; by Section 5-675 of the Civil Administrative Code of Illinois [20 ILCS 5/5-675]; by Sections 2, 2a, 3, 4 and 5 of the Displaced Person Relocation Act [310 ILCS 40/2, 2a, 3, 4 and 5]; and by Section 10-5-62 of the Eminent Domain Act [735 ILCS 30/10-5-62].

SOURCE: Peremptory rules adopted at 13 Ill. Reg. 7057, effective April 25, 1989; amended at 17 Ill. Reg. 283, effective December 23, 1993; old Part repealed at 32 Ill. Reg. _____ and new Part adopted at 32 Ill. Reg. _____, effective _____.

Section 518.10 Purpose

The purpose of this Part is to establish policies and procedures for the Illinois Department of Transportation, Division of Highways, when applying the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (the Uniform Act) (42 USC 4601 et seq.) to highway projects for which the State intends to provide State or federal financial assistance and that involve the displacement of persons, businesses, farm operators or nonprofit organizations. This Part establishes a means of providing relocation services and of making moving cost payments, replacement housing cost payments, and other expense payments to persons, businesses, farm operators or nonprofit organizations displaced as a result of programs designed for the benefit of the public. It is also designed to assure compliance with the federal requirements of the Uniform Act and the federal rules titled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (49 CFR 24) to assure federal participation on federally-aided projects.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

Section 518.20 Definitions

The following definitions are in addition to those found in the incorporated material in Section 518.30 and apply for purposes of this Part:

"Central Bureau of Land Acquisition" − means the office of the Division responsible for developing, evaluating and interpreting the policies and procedures for planning and implementing the statewide land acquisition program and for advising, guiding and assisting the Regional Engineers and the districts on all program policies.

"Director" − means the Director of the Division of Highways or the Director's designee.

"District" − means a geographic subgroup of the Division of Highways. Each district has its own land acquisition office or bureau.

"Division" − means the Illinois Department of Transportation, Division of Highways.

"Regional Engineer" − means the Regional Engineer of any one of the 5 regional offices of the Division of Highways or the Regional Engineer's designee. A Regional Engineer is responsible for all actions within a region, which is comprised of one or two districts.

Section 518.30 Incorporation by Reference

This Part incorporates by reference 49 CFR 24, except Subpart B, as of October 1, 2007, that is the basis and guideline for the development of the Division's policy for highway projects for which federal financial assistance may be requested and for relocation assistance advisory services and payments for persons, businesses, farms or nonprofit organizations displaced as a result of those projects. 49 CFR 24 is incorporated as a part of this Part and is effective as indicated, not including any later amendments or editions. Copies of the appropriate materials are available from the Division of Highways, Central Bureau of Land Acquisition, Room 210, 2300 South Dirksen Parkway, Springfield, Illinois 62764 or by calling 217/782-6243.

Section 518.40 Review Procedures

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

Any aggrieved person may file a written request for review with the Regional Engineer in any case in which the person believes that the District has failed to properly consider his/her eligibility for relocation assistance advisory services or payments, or the amount of a payment required under this Part.

a) If relocation assistance advisory services, payments, or the amount of the payment is denied, in whole or in part, the District will notify the aggrieved person in writing of the denial or revised amount of the claim, including the basis for the District's determination. The written notification will also inform the person of his/her right to request a review of the determination by the Regional Engineer and will include the procedures to be followed when requesting a review.

b) An aggrieved person may file a written request for review within 90 calendar days after receipt of written notification of the District's determination. The request for review shall be filed with the Regional Engineer at the address provided in the written notification. If the aggrieved person does not file a request for review within 90 calendar days after receipt of written notification of the District's determination, the aggrieved person shall be deemed to have waived his/her opportunity to file a request for review. In that case, the determination will stand and the Division will take appropriate action to implement the determination and/or process the approved amount of the claim, if any, for payment. A written request for review will be considered regardless of form.

1) Upon receipt of the request for review, the Regional Engineer will assign a date and place for the review meeting. Written notification of the date and place will be provided to the aggrieved person by certified mail, return receipt requested, at least 10 days prior to the scheduled date for review. The Regional Engineer cannot have been directly involved in the actions being reviewed.

2) Prior to the review, the aggrieved person will be permitted to inspect and copy all materials pertinent to his/her review, except materials that are classified as confidential.

3) The aggrieved person, or a representative, will be afforded a full opportunity to be heard and to present information or documentation in support of his/her position. Representation by another person will be at the sole expense of the aggrieved person.

4) The Regional Engineer will render a decision based upon the facts presented and the law. Written notification of the decision will be sent by certified mail, return receipt requested, within 30 calendar days after the date of the review.

5) If the Regional Engineer's decision upholds the denial of eligibility for relocation assistance advisory services or payments, in whole or in part, the written notification will detail the reasons supporting the denial and will also advise the aggrieved person of his/her right, if dissatisfied with the decision, to request a final review by the Director. If the aggrieved person does not request a final review within 30 calendar days after written notification of the decision, the aggrieved person shall be deemed to have waived his/her opportunity to file a request for a final review. In that case, the Regional Engineer's decision will stand and the District will take appropriate action to implement the decision and/or process the approved amount of the claim, if any, for payment.

c) An aggrieved person may request a final review by notifying the Regional Engineer in writing at the address provided in the written notification of the decision. The Regional Engineer will forward the request to the Director. A written request for final review will be considered regardless of form.

1) Upon receipt of the request for a final review, the Director will assign a date and place for the final review meeting. Written notification of the date and place of the final review will be provided to the aggrieved person by certified mail, return receipt requested, at least 10 days prior to the scheduled date of the final review. The Director cannot have been directly involved in the action being reviewed.

2) The aggrieved person, or representative, will be afforded a full opportunity to be heard and to present information or documentation in support of his/her position. Representation by another person will be at the sole expense of the aggrieved person.

3) The disposition of the final review will be based upon the facts presented and the law. Written notification of the final decision and the reasons supporting the decision will be sent by certified mail, return receipt requested, within 30 calendar days after the date of the final review. The District will take appropriate action to implement the Director's

determination and/or process the approved amount of the claim, if any, for payment.

4) The Director's decision is final. The aggrieved person will be advised of his/her right to seek redress through judicial review.

d) The Director may extend any time period provided in this Part for up to 30 days upon written request from either the aggrieved person or the Regional Engineer.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Relocation Assistance and Payments Program

2) Code Citation: 92 Ill. Adm. Code 518

3)

Section Numbers:	Proposed Action:
518.10	Repeal
518.15	Repeal
518.20	Repeal
518.100	Repeal
518.105	Repeal
518.110	Repeal
518.115	Repeal
518.120	Repeal
518.125	Repeal
518.130	Repeal
518.135	Repeal
518.140	Repeal
518.145	Repeal
518.200	Repeal
518.300	Repeal
518.305	Repeal
518.310	Repeal
518.315	Repeal
518.320	Repeal
518.400	Repeal
518.405	Repeal
518.410	Repeal
518.415	Repeal
518.420	Repeal
518.500	Repeal
518.505	Repeal
518.600	Repeal
518.700	Repeal
518.705	Repeal
518.710	Repeal
518.715	Repeal
518.720	Repeal
518.725	Repeal
518.730	Repeal

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

518.735	Repeal
518.740	Repeal
518.745	Repeal
518.750	Repeal
518.800	Repeal
518.805	Repeal
518.810	Repeal
518.815	Repeal
518.820	Repeal
518.825	Repeal
518.830	Repeal
518.835	Repeal
518.840	Repeal
518.845	Repeal
518.850	Repeal
518.855	Repeal
518.860	Repeal
518.865	Repeal
518.870	Repeal
518.875	Repeal
518.900	Repeal
518.905	Repeal
518.910	Repeal
518.915	Repeal
518.920	Repeal
518.925	Repeal
518.1000	Repeal
518.1005	Repeal
518.2000	Repeal
518.2005	Repeal
518.2010	Repeal
518.3000	Repeal
518.3005	Repeal
518.3010	Repeal
518.4000	Repeal
518.4005	Repeal
518.4010	Repeal
518.4015	Repeal
518.4020	Repeal

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

518.4025	Repeal
518.4030	Repeal
518.4035	Repeal
518.4040	Repeal
518.4045	Repeal
518.4050	Repeal
518.4055	Repeal
518.4060	Repeal
518.4065	Repeal
518.4070	Repeal
518.4075	Repeal
518.4080	Repeal
518.4085	Repeal
518.4090	Repeal
518.4095	Repeal
518.4100	Repeal
518.5000	Repeal
518.EXHIBIT A	Repeal

4) Statutory Authority: Implementing Sections 3-107.1 through 3-107.1f and Section 4-511 of the Illinois Highway Code (Ill. Rev. Stat. 1991, ch. 121, pars. 3-107.1 through 3-107.1f and 4-511 as amended by P.A. 85-1407, effective September 22, 1988) [605 ILCS 5/3-107.1 through 3-107.1f and 4-511]; which were required by Sections 103, 210 and 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Public Law 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 Note); Department of Transportation Act (49 U.S.C. 1655); Delegation of Authority by the Secretary of Transportation (49 CFR 1.48(dd), 1987); Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs (54 CFR 8912, effective March 2, 1989); Title VI Program and Related Statutes – Implementation and Review Procedures (23 CFR 200, 1988) and authorized by Section 3-107.1e of the Illinois Highway Code (Ill. Rev. Stat. 1991, ch. 121, par. 3-107.1e) [605 ILCS 5/3-107.1e]

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register,* is proposing to adopt a new rule that will reorganize and update the Part. Additionally, the Department will add definitions to the new Part that are not covered in this rule but that are applicable to the new Part.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any proposed amendments pending on this Part? No

11) Statement of Statewide Policy Objectives: This proposed repealer will not impact local governments.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Richard W. Hunter, Bureau Chief
Illinois Department of Transportation
Division of Highways, Bureau of Land Acquisition
2300 South Dirksen Parkway, Room 210
Springfield, Illinois 62764

217/782-6243

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

217/524-3838

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This proposed repealer will not affect small businesses, small municipalities, or not for profits.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 518
RELOCATION ASSISTANCE AND PAYMENTS PROGRAM (REPEALED)

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AUTHORITY: Implementing Sections 3-107.1 through 3-107.1f and Section 4-511 of the Illinois Highway Code (Ill. Rev. Stat. 1991, ch. 121, pars. 3-107.1 through 3-107.1f and 4-511 as amended by P.A. 85-1407, effective September 22, 1988) [605 ILCS 5/3-107.1 through 3-107.1f and 4-511]; which were required by Sections 103, 210 and 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Public Law 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 Note); Department of Transportation Act (49 U.S.C. 1655); Delegation of Authority by the Secretary of Transportation (49 CFR 1.48(dd), 1987); Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs (54 CFR 8912, effective March 2, 1989); Title VI Program and Related Statutes – Implementation and Review Procedures (23 CFR 200, 1988) and authorized by Section 3-107.1e of the Illinois Highway Code (Ill. Rev. Stat. 1991, ch. 121, par. 3-107.1e) [605 ILCS 5/3-107.1e].

SOURCE: Peremptory rules adopted at 13 Ill. Reg. 7057, effective April 25, 1989; amended at 17 Ill. Reg. 283, effective December 23, 1993; repealed at 32 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 518.10 Purpose

The purpose of this Part is to provide relocation and reestablishment of persons, businesses, farm operations and nonprofit organizations displaced as a result of the acquisition of right-of-way for State highway construction projects. This Part is intended to establish a means of providing relocation services and of making moving cost payments, replacement housing cost payments, and other expense payments in order that such displaced persons or businesses do not suffer

disproportionate injuries as a result of programs designed for the benefit of the public as a whole. It is also designed to assure compliance with Federal requirements in order to assure Federal participation on Federally-aided projects. (54 FR 8928, effective March 2, 1989)

Section 518.15 Compliance with Other Laws and Regulations

The implementation of this Part must be in compliance with other applicable Federal Laws and implementing regulations, including, but not limited to, the following:

a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.).

b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended.

d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.).

f) The Flood Disaster Protection Act of 1973 (P.L. 93-234).

g) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

h) Executive Order 11063 (November 20, 1962) – Equal Opportunity and Housing, as amended by Executive Order 12259.

i) Executive Order 11246 (September 24, 1965) – Equal Employment Opportunity.

j) Executive Order 11625 (October 13, 1971) - Minority Business Enterprise.

k) Executive Orders 11988 (May 24, 1977), Floodplain Management, and 11990, Protection of Wetlands.

l) Executive Order 12250 (May 2, 1980) – Leadership and Coordination of Non-Discrimination Laws.

m) Executive Order 12259 (December 31, 1980) – Leadership and Coordination of Fair Housing in Federal Programs.

n) Executive Order 12630 (March 18, 1988) – Governmental Actions and Interference with Constitutionally Projected Property Rights. (54 FR 8932, effective March 2, 1989)

Section 518.20 Definitions

"Acquiring agency" – means a State agency which has the authority to acquire property by eminent domain under State law, and a State agency or person which does not have such authority, unless any such agency or person is acquiring property pursuant to the following:

Voluntary transactions when the acquiring agency has the power of eminent domain, but it will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

The acquisition of real property from a Federal agency, State, or State agency, if the acquiring agency does not have the authority to acquire the property through condemnation.

Projects or programs undertaken by an acquiring agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such agency or person shall:

Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and

Inform the owner of what it believes to be fair market value of the property, based on an appraisal.

"Agency" – means the Federal agency, State, State agency, or person that acquires the real property or displaces a person. (54 FR 8928, effective March 2, 1989)

"Appraisal" – means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of the described property as of a specific date, supported by the presentation and analysis of relevant market information. (54 FR 8928 and 8929, effective March 2, 1989)

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"Business" – means any lawful activity, except a farm operation, that is conducted:

Primarily for the purchase, sale, lease or rental of personal or real property, or for the manufacture, processing, or marketing of products, commodities, or any other personal property; or

Primarily for the sale of services to the public; or

Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

By a nonprofit organization that has established its nonprofit status under applicable Federal or State law. (54 FR 8929, effective March 2, 1989)

"Comparable replacement dwelling" – means a dwelling which is:

"Decent, safe and sanitary" as described in this Section.

Functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Department will consider trade-offs for specific features when the replacement unit is "equal to or better than" the displacement dwelling. A comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

A public housing unit will qualify as a comparable replacement dwelling only for a person displaced from a public housing unit; a privately-owned dwelling with a housing program subsidy tied to the unit will qualify as a comparable replacement dwelling only for a person displaced from a

similarly subsidized unit or public housing; a housing program subsidy to a person (not tied to the building), such as a HUD Section 8 Existing Housing Program Certificate or a Housing Voucher, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately-owned subsidized unit or public housing unit before displacement.

However, nothing in this Part prohibits the Illinois Department of Transportation (Department) from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Department is obligated to inform the person of his or her options. If a person accepts assistance under a government housing program, the rental assistance payment will be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.

Adequate in size to accommodate the occupants.

In an area not subject to unreasonable adverse environmental conditions.

In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment.

On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses.

Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.

Within the financial means of the displaced person.

A replacement dwelling purchased by a homeowner in occupancy for at least one hundred and eighty days prior to initiation of

negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner is paid the full price differential, all increased mortgage interest costs and all incidental expenses as described herein plus any additional amount required to be paid under last resort housing.

A replacement dwelling rented by a displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and utility costs for the replacement dwelling do not exceed thirty percent of average gross monthly household income.

For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds thirty percent of such person's gross monthly household income. Such rental assistance must be paid under last resort housing provisions (see Subpart M) for a period of *forty two months* (Section 3-107.c of the Code). (54 FR 8929, effective March 2, 1989)

"Contributes materially" – means that during the two taxable years prior to the taxable year in which displacement occurs, or, during such other period as the Department determines to be more equitable, a business or farm operation:

Had average annual gross receipts of at least $5,000; or

Had average annual net earnings of at least $1,000; or contributed at least thirty three and one-third percent of the owner's or operator's average annual gross income from all sources.

If the application of the above criteria creates an inequity or hardship in any given case, the Department may approve the use of other criteria as determined appropriate. (54 FR 8929, effective March 2, 1989)

"Decent, safe and sanitary dwelling" - means a dwelling which meets applicable housing and occupancy codes. However, any of the following standards which

are not met by an applicable code shall apply unless waived for good cause by the Federal agency funding the project. The dwelling shall:

Be structurally sound, weathertight, and in good repair.

Contain a safe electrical wiring system adequate for lighting and other devices.

Contain a heating system capable of sustaining a healthful temperature (of approximately seventy degrees) for a displaced person, except in those areas where local climate conditions do not require such a system.

Be adequate in size with respect to the number of rooms and living space needed to accommodate the displaced person. There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

For a displaced person who is handicapped, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. (54 FR 8929, effective March 2, 1989)

"Department" – means the Illinois Department of Transportation.

"Director, Division of Highways" – means the Director acting as the Chief Executive Officer of the Division of Highways, including all nine District offices, of the Illinois Department of Transportation.

"Displaced person" – means any person who moves from the real property or moves his or her personal property from the real property:

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As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project. This includes a person who does not meet length of occupancy requirements;

As a direct result of rehabilitation or demolition for a project; or

As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person applies only for purposes of obtaining relocation assistance advisory services and moving expenses. (54 FR 8929 and 8930, effective March 2, 1989)

"Displacing agency" – means any Federal agency carrying out a program or project, and any State, State agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person. (54 FR 8928, effective March 2, 1989)

"District Engineer" – means any one of the Registered Professional Engineers acting as the Chief Executive Officer of any of the nine District offices of the Division of Highways of the Illinois Department of Transportation.

"Dwelling" – means the place of permanent or customary and usual residence of a person, according to local custom or law, including a singly family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit. (54 FR 8930, effective March 2, 1989)

"Farm operation" – means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. (54 FR 8930, effective March 2, 1989)

"Federal agency" – means any department, Agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and

any person who has the authority to acquire property by eminent domain under Federal law. (54 FR 8928, effective March 2, 1989)

"Federal financial assistance" – means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual. (54 FR 8930, effective March 2, 1989)

"FHWA" – means the Federal Highway Administration of the United States Department of Transportation.

"Initiation of negotiations" – means the following unless a different action is specified in applicable Federal program regulations:

Whenever the displacement results from acquisition of the real property by a Federal agency or State agency, the "initiation of negotiations" means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal agency or State agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the actual move of the person from the property.

Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal agency or a State agency), the "initiation of negotiations" means the written notice (hereafter referred to as "Notice") to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.

In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or "Superfund") the "initiation of negotiations" means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation. (54 FR 8930, effective March 2, 1989)

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"Lead agency" – means the U.S. Department of Transportation acting through the Federal Highway Administration. (54 FR 8930, effective March 2, 1989)

"Mortgage" – means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby. (54 FR 8930, effective March 2, 1989)

"Nonprofit organization" – means an organization that is exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501) (54 FR 8930, effective March 2, 1989).

"Owner of a dwelling" – means a person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

Fee title, a life estate, a ninety nine year lease, or a lease including any options for extension with at least fifty years to run from the date of acquisition; or

An interest in a cooperative housing project which includes the right to occupy a dwelling; or

A contract to purchase any of the above interests or estates; or

Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership. (54 FR 8930, effective March 2, 1989)

"Person" – means any individual, family, partnership, corporation, or association. (54 FR 8931, effective March 2, 1989)

"Persons not displaced" – means the following list of persons, including, but not limited to, those persons who do not qualify as displaced persons under this Part:

A person who moves before the initiation of negotiations unless the Department determines that the person was displaced as a direct result of the program or the project.

A person who initially enters into occupancy of the property after the date of its acquisition for the project.

A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act.

A tenant-occupant of a dwelling who has been notified on a timely basis that he or she will not be displaced by the project, provided that:

The tenant is offered an opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building or nearby building on the real property.

The terms and conditions of continued occupancy are reasonable and set forth in a lease which is offered to the tenant; and

If the tenant is required to relocate temporarily, the conditions of the temporary relocation shall be reasonable; the tenant shall be reimbursed for the actual out-of-pocket expenses incurred in connection with the temporary relocation, including moving costs and any increased rent/utility costs; and the temporarily occupied dwelling shall be decent, safe and sanitary as defined in this Section. (54 FR 8946, effective March 2, 1989)

An owner-occupant who moves as a result of an acquisition that is not subject to the requirements of The Uniform Act or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this Part.)

A person whom the Department determines is not displaced as a direct result of a partial acquisition.

A person who, after receiving a notice of relocation eligibility is notified in writing that he or she will in fact not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any

binding contractural relocation obligations entered into after the effective date of the notice of relocation eligibility.

An owner-occupant who voluntarily sells his or her property after being informed in writing that, if a mutually satisfactory agreement of sale cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to this Part.

A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency.

A person who is determined to be in unlawful occupancy or a person who has been evicted for cause, under applicable law, prior to the initiation of negotiations for the property. (54 FR 8930, effective March 2, 1989)

"Project" – means any action or series of actions undertaken by a Federal agency or with Federal financial assistance that are designed primarily to further or complete an activity or program that will benefit the public as a whole. It does not include an action or series of actions undertaken by an individual or family with Federal financial assistance if such assistance is intended primarily to assist or benefit such individual or family. (54 FR 8933, effective March 2, 1989)

"Right-of-Way" – means *all property, whether it is presently being used for highway purposes or not, either under the jurisdiction of the Department or owned in fee by the State of Illinois or dedicated to the People of the State of Illinois for highway purposes, for which the jurisdiction, maintenance, administration, engineering or improvement of any highway situated thereon has been contracted by the Department to any other highway authority.* (Section 4-409 of the Illinois Highway Code (the Code)) (Ill. Rev. Stat. 1991, ch. 121, par. 4-409) [605 ILCS 5/4-409].

"Salvage value" – means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis. (54 FR 8931, effective March 2, 1989)

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"Small business" – means a business having not more than five hundred employees working at the site being acquired or permanently displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of Section 518.750. (58 FR 26072, April 30, 1993.)

"State" – means any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territories of the Pacific Islands or a political subdivision of any of these jurisdictions. All references to "State" as used in this Part refers to the Illinois Department of Transportation unless otherwise identified. (54 FR 8931, effective March 2, 1989)

"State agency" – means any Department, Agency or instrumentality of a State or of a political subdivision of a State, any Department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law. (54 FR 8928, effective March 2, 1989)

"Subsidiary project relocation office" – means an office established near a project to facilitate the delivery of relocation advisory services and payments.

"Tenant" – means a person who has the temporary use and occupancy of real property owned by another. (54 FR 8931, effective March 2, 1989)

"Uneconomic remnant" – means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value or utility to the owner. (54 FR 8931, effective March 2, 1989)

"Uniform Act" – means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; P.L. 91-646) *as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, 101 Stat. 246-256, Title IV of P.L. 100-17 (42 U.S.C. 4601 Note)*. (54 FR 8931, effective March 2, 1989)

"Unlawful occupancy" – A person is considered to be in unlawful occupancy when such person has been ordered to move by a court of competent jurisdiction

prior to the initiation of negotiations for the acquisition of the occupied property. At the discretion of the displacing agency, squatters who occupy real property without the permission of the owner may be considered to be in unlawful occupancy. Technical violations of law and unlitigated violations of the terms of a lease, such as having an unauthorized pet or withholding rent because of improper building maintenance, do not render a person's occupancy unlawful. (54 FR 8931, effective March 2, 1989)

"Utility costs" – means expenses for heat, lights, water and sewer. (54 FR 8931, effective March 2, 1989)

"Utility facility" – means any electric, gas, water, steam power, or materials transmission or distribution system; and transportation system; any communications system, including cable television; and any fixtures, equipment or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned. (54 FR 8931, effective March 2, 1989)

"Utility relocation" – means the adjustment of a utility facility required by the program or project undertaken by the displacing agency. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequency of project construction. (54 FR 8931, effective March 2, 1989)

SUBPART B: ASSURANCES OF PROGRAM

Section 518.100 Replacement Housing

No family, or individual, occupying a dwelling can be displaced by the Department's highway construction projects unless and until comparable replacement housing is made available to, or provided for, all of those to be displaced by the project. In addition, no person to be displaced shall be required to move permanently from his or her dwelling unless at least one comparable replacement dwelling has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

a) The person is informed of its location and the adjusted asking price; and

b) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

c) Subject to reasonable safeguards, the person is assured of receiving relocation assistance and the acquisition payment, to which the person is entitled, in sufficient time to complete the purchase or lease of a property. (54 FR 8935, effective March 2, 1989)

Section 518.105 Eviction For Cause

Eviction for cause must conform to applicable State (Ill. Rev. Stat. 1987, ch. 110, par. 9-101 et. seq) and local law. Any person who has lawfully occupied the real property, but who is later evicted for cause on or after the date of the initiation of negotiations, retains the right to relocation payments and other assistance. However, the date the person moves establishes the date of the person's displacement. This provision only applies to persons who otherwise would have been displaced by the project. (54 FR 8937, effective March 2, 1989)

Section 518.110 Deductions From Relocation Payments

The Department may deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, when acquiring real property, the Department may deduct from relocation payments any rent that the displaced person owes to the Department; provided that no deduction shall be made if it would prevent the displaced person from obtaining comparable replacement housing as required by this Part. The Department may not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor. (54 FR 8937, effective March 2, 1989)

Section 518.115 Relocation Payments Not Considered As Income

No relocation payment received by a displaced person under this Part shall be considered as income for the purpose of the Internal Revenue Code of 1954; or, for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act; or, any other Federal law, except for any Federal law providing low income housing assistance. (54 FR 8937, effective March 2, 1989)

Section 518.120 Prevention of Fraud, Waste, and Mismanagement

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The Department will take appropriate measures to carry out the provisions of this Part in a manner that minimizes fraud, waste, and mismanagement. (54 FR 8928, effective March 2, 1989)

Section 518.125 Administration of Jointly Funded Federal-Aid Projects

Whenever two or more Federal agencies provide financial assistance to an agency or agencies, to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person, the Federal agencies may, by agreement, designate one such agency as the cognizant Federal agency. At a minimum, the agreement shall set forth the federally assisted activities which are subject to its terms and cite any policies and procedures, in addition to this Part, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal agency shall assure the project is in compliance with the provisions of the Uniform Act and this Part. All federally assisted activities under the agreement shall be deemed a project for the purposes of this Part. (54 FR 8932, effective March 2, 1989)

Section 518.130 Federal or State Agency Waiver of Regulations

The Federal or State agency funding the project may waive any requirement in 49 CFR 24 and this Part that is not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this Part. Any request for a waiver shall be justified on a case-by-case basis (54 FR 8932, effective March 2, 1989).

Section 518.135 Manner of Notices

Each notice which the State is required to provide to a property owner or occupant under this Part, must be personally served or sent by certified first-class mail, return receipt requested, and documented in the files. Each such notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help (54 FR 8931, effective March 2, 1989).

Section 518.140 No Duplication of Payments

No person shall receive any payment under this Part if that person receives a payment under Federal, State, or local law which is determined to have the same purpose and effect as such payment under this Part. (54 FR 8931, effective March 2, 1989)

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Section 518.145 Basic Eligibility Requirements

Basic eligibility for relocation advisory assistance and payments is established on the basis of facts existing as of the date of the initiation of negotiations. (54 FR 8935, effective March 2, 1989)

SUBPART C: CLAIMS

Section 518.200 Claims for Relocation Payments

a) Any claim for any relocation payment must be supported by such documentation such as bills, certified prices, appraisals, or other evidence of such expenses. Displaced persons will be provided assistance to complete and file any required claim for payment.

b) The Department will review claims. The claimant will be notified as to any additional documentation that is required to support the claim. Payment for a claim will be made following receipt of proper documentation to support the claim.

c) If a displaced person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the Department will issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

d) All claims for a relocation payment must be filed with the Department within eighteen months after:

1) For tenants, the date of displacement.

2) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

3) This time period will be waived by the Department for good cause.

e) If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Department, of any relocation payments that would have been

made if the occupants moved together to a comparable replacement dwelling. However, if the Department determines that two or more occupants maintained separate households within the same dwelling, such occupants will have separate entitlements to relocation payments.

f) The Department will deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The Department will deduct from relocation payments any rent that the displaced person is otherwise entitled. The Department will deduct from relocation payments any rent that the displaced person owes the Department; provided that no such deduction will be made if it will prevent the displaced person from obtaining a comparable replacement dwelling. The State may not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any creditor other than the Illinois Department of Transportation.

g) If the Department disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it will promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for requesting a review of that determination. (54 FR 8937, effective March 2, 1989)

SUBPART D: RELOCATION ASSISTANCE ADVISORY SERVICES

Section 518.300 General Information on Advisory Services Offered

The services required in this Part are intended as minimum standards to be followed in assisting such displaced persons to relocate to decent, safe and sanitary housing that meets their needs. Information concerning the services and the service itself should be provided through personal contact. If such personal contact cannot be made, the file will be documented to show that efforts were made to achieve the personal contact. In lieu of such personal contact, the displaced person will be notified by certified first class mail, return receipt requested.

Section 518.305 To Whom Provided Advisory Services

a) Relocation Advisory Assistance will be offered by the Department to:

1) Any "displaced person" as defined in Section 518.20.

2) Any person occupying property immediately adjacent to the real property

acquired when the District Engineer determines that such person or persons are caused substantial economic injury because of the acquisition; and

3) To a person who, because of the acquisition of real property used for his business or farm operation, moves from other real property used for a dwelling, or moves his personal property from such other real property.

b) Relocation advisory services may also, at the discretion of the District Engineer, be offered to persons occupying real property after its acquisition by the State or as State tenants under short term rental agreements.

c) Persons in occupancy on the date of the initiation of negotiations, who are subsequently evicted for cause, retain all their rights to advisory assistance and payments subject to the usual eligibility requirements. For the purpose of determining eligibility for relocation payments, the date of displacement is the date the person moves or the date a comparable replacement dwelling is made available, whichever is later. This eligibility applies only if the Department had intended to displace the person. (54 FR 8936, effective March 2, 1989)

Section 518.310 Minimum Advisory Assistance Requirements

a) Such relocation advisory assistance shall include, as a minimum, such measures, facilities, or services as may be necessary or appropriate to:

1) Advise residential displaced persons that they cannot be required to move unless at least one comparable replacement dwelling is available to them; discuss and explain the advisory services available; relocation payments; the eligibility requirements; and provide assistance in completing any claim forms.

2) Personally interview and determine the needs and preferences, if any, of all displaced individuals, families, businesses, farm operations, and non-profit organizations.

3) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable decent, safe and sanitary sales and rental housing, and of comparable and suitable commercial and farm properties and locations for displaced businesses, farm operations and

non-profit organizations.

4) Assist a person displaced from his business, farm operation, or non-profit organization facility, in obtaining and becoming established in a decent, safe and sanitary replacement location and inform of the relocation assistance and payments available to them and the eligibility requirements.

5) Supply persons to be displaced information concerning Federal, State and other housing programs, disaster and other loans, programs administered by the Small Business Administration (SBA), and other Federal, State or other programs offering assistance to displaced persons and technical help to persons applying for such assistance.

6) Advise displaced persons that *no payments received under the Uniform Act shall be considered as income for the purpose of the Internal Revenue Code of 1954 or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.* (Section 216 of the Uniform Act)

7) Provide advisory services such as counseling, advice as to other sources of assistance, other help as appropriate, to displaced persons in order to minimize hardships to such persons in adjusting to a new location.

8) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. (54 FR 8936, effective March 2, 1989)

9) Offer all displaced persons, especially the elderly and handicapped, transportation to inspect housing to which they are referred.

10) Inform the displaced homeowner occupant or residential tenant occupant, in writing, of the maximum replacement housing payment he/she may be eligible to receive and of the specific comparable replacement dwelling and the price or rent used to establish the upper limit of the replacement housing payment and the basis for the determination.

11) Advise residential displaced persons that the replacement housing must be decent, safe, and sanitary, and so certified by the State in order for the

displaced person to be eligible to receive a replacement housing payment.

b) Relocation advisory services over and above the minimal requirements outlined in this Section must be offered, and provided if requested, on a reasonable basis, commensurate with the relocatees' needs. (54 FR 8936, effective March 2, 1989)

Section 518.315 District Relocation Office

The Department will maintain and make available the following information:

a) Current and continuing lists of replacement dwellings, available to displaced person without regard to race, color, religion, sex or national origin, drawn from various sources, and suitable in price, size and conditions for such displaced persons, to the extent these lists are available.

b) Current and continuing lists of comparable commercial properties and location for displaced businesses.

c) Current data for such costs as security deposits for utilities, closing costs, typical down payments, and interest rates and terms.

d) Maps showing the location of schools, parks, playgrounds, shopping and public transportation routes.

e) Schedules and costs of public transportation.

f) Neighborhood and metropolitan newspapers and multiple listing information will also be maintained when available and other specific information peculiar to the particular persons or businesses displaced by the project. (54 FR 8936, effective March 2, 1989)

Section 518.320 Subsidiary Project Relocation Office

a) A subsidiary project relocation office, as defined in Section 518.20, will be established, which is convenient to public transportation or within walking distance of each project, if the volume of work or the needs of the relocatees are such as to justify the establishment of such an office.

b) Subsidiary offices shall be staffed as required and open during hours convenient

to the persons to be displaced, including evenings, if necessary. If additional staff is required, consideration should be given to the employment of people who are familiar with the problems of the area. (54 FR 8936, effective March 2, 1989)

SUBPART E: PUBLIC INFORMATION

Section 518.400 General Requirements

The District Engineer will provide public notice of the Department's Relocation Program, i.e., the relocation payments and the advisory services to be made available to relocatees.

Section 518.405 Notice of Relocation Eligibility

Eligibility for relocation assistance and payments begins on the date of the initiation of negotiations for the occupied property. All displaced persons will be provided written notice of such eligibility. (54 FR 8931, effective March 2, 1989)

Section 518.410 Personal Notice of Relocation Program

As soon as feasible, each individual, family, business and farm operation scheduled to be displaced by the project will be furnished through personal contact (or by certified first class mail, return receipt requested, if such personal contact is not possible) with a general written description of the State's Relocation Advisory Assistance and Payments Program; the eligibility requirements and procedures for obtaining this assistance and these payments; and how to request a review by the Director of the Division of Highways of the Illinois Department of Transportation, or designees thereof, of any disputed claim for payment. (54 FR 8931, effective March 2, 1989)

Section 518.415 Notice of Displacement

a) The "Notice" informs displaced persons of the Relocation Advisory Assistance and Payments that will be made available to them. This information will be furnished to all such displaced persons at the time of the initiation of negotiations to acquire the occupied real property or interest therein.

b) Lawful occupants cannot be required to move unless they have received at least ninety days advance written notice of the earliest date by which they may be required to move. Therefore, in no event, shall this required information be given less than ninety days prior to the date the owner or tenant will be required to

move. (54 FR 8935, effective March 2, 1989)

Section 518.420 Thirty Day Specific Date Written Notice To Vacate

a) No person lawfully occupying the real property, or having personal property thereon, can be required to move from his home, farm or business location, or move his personalty, without the Department, or the Agency having responsibility for the acquisition, giving at least ninety days prior written notice and thirty days specific date written notice to vacate.

b) The thirty day specific date written notice to vacate will give a firm date by which the property shall be vacated and such notice will be furnished to each individual, family, business, or farm operation to be displaced if they still occupy the acquired property at least thirty days prior to the specific date the property is needed. Such notices must be personally presented and the file so documented or, in the alternate, if this is not possible, by certified first class mail, return receipt requested. The vacation date may be extended when conditions warrant, but any extension will be in writing and will give another specific date by which the property shall be vacated.
AGENCY NOTE: If someone lives on the property or, in the alternate, does not live on the property but has personal property thereon, he/she will be given at least ninety days prior written notice and the thirty day specific date notice to vacate. This will apply whether an individual, a family, a business, a farm operation or non-profit organization occupies the property. The key to understanding lies in the words "required to move". There must be something to move. If there is something to move, the notice must be given. This would not preclude a mutual agreement between the Department and the involved person or business providing for the voluntary surrender of possession of the real property in less than ninety days. Likewise, the Department cannot be held responsible if a ninety day/thirty day notice was issued but the landlord issued a notice giving lesser notice to a tenant.

c) The thirty day specific date notice cannot be given, under any circumstances, until the property has been acquired and the State has title. If acquired by negotiation, the warranty deed or other instrument(s) of conveyance must have been delivered to the State and payment for the property must have been made to the owner; if acquired through eminent domain proceedings, preliminary just compensation must have been deposited with the court and the order vesting title must have been entered, or in a case where quick take procedure was not used, then upon

deposit of just compensation as set forth in the final judgment order. (54 FR 8933, effective March 2, 1989)

d) Form BRW 947, "Notice to Vacate" completed to show the appropriate date(s) may be used for this purpose. It is not necessary to give the thirty day specific date written notice to vacate to all owners and tenants. The thirty day notice is only to be given when the property will actually be required in thirty days for some reason, such as: advertising for a construction letting; advertising for a demolition contract; or to conduct a sale of buildings. When it becomes apparent that certain properties will be required in thirty days, all remaining occupants legally in possession, except those covered by rental agreements, must be given said thirty day specific notice. Occupants who have signed rental agreements will be notified in accordance with the provisions of the rental agreement which also generally provides for a minimum thirty day notice. (54 FR 8935, effective March 2, 1989)

SUBPART F: REVIEWS – DISPUTED CLAIMS

Section 518.500 Denial of Claim and Method of Review

a) A displaced person may file a written request with the District Engineer for review in any case in which the displaced person believes that the State has failed to properly determine such person's eligibility for, or the amount of, a payment required under this Part or otherwise to consider such displaced person's application for assistance under this program. The State will consider a written request regardless of form.

b) In the event a claim for payment is denied, in whole or in part, in connection with the payments provided for in this program, the claimant will be promptly notified in writing of the amount that he/she is entitled to receive, if any. Such notification will also inform the applicant of his right to request a review of such decision by the District Engineer, and the procedures therefor, in the event the applicant is dissatisfied with the ruling on his application for such payments.

c) The applicant will also be advised, at the time of such written notification, that if he desires such a review he must notify the District Engineer to this effect in writing within sixty days of the date of such letter of notification. (In the alternate, if the District Engineer does not hear from the applicant within such sixty day period he should presume that the applicant does not wish such review

and should proceed to process the "approved" claim for payment, if any payment is due.)

d) Upon receipt of the request for review from the applicant, the District Engineer, or his designated representative, will then immediately fix a date and place for the review and so notify the applicant. Such notice shall be in writing and shall be presented to the applicant at least ten days prior to the scheduled date for review.
AGENCY NOTE: In order to assure a fair, equitable, and impartial review the person conducting the review cannot have been directly involved in the action under review.

e) The State will permit a displaced person to inspect and copy all materials pertinent to his or her review except materials which are classified as confidential. The State will impose conditions on the person's right to inspect, consistent with applicable laws.

f) At the time of this review, the applicant, or his representative, will be afforded full opportunity to be heard and to present information or documentation in support of the claim for payment. Representation by others will be at the sole expense of the displaced person. Thereafter, the applicant will be notified in writing, within thirty days, of the decision reached regarding his claim and the reasoning in support of the decision. (54 FR 8932, effective March 2, 1989)

g) Such written notification will also advise the applicant of his right to request a final review by the Director of Highways in the event he is dissatisfied with the review findings of the District Engineer.

1) If the applicant requests this final review, the District Engineer will forward the request to the Director of Highways. The Director of Highways, or his designated representative, will then immediately fix a date and place for the review and so notify the applicant. Such notice shall be in writing and shall be presented to the applicant at least ten days prior to the scheduled date for review.
AGENCY NOTE: In order to assure a fair, equitable, and impartial review, the person conducting the review cannot have been directly involved in the action under review.

2) At the time of this review, the applicant will be given an opportunity to be heard, and to present pertinent information or documentation in support of

the claim for payment. Thereafter, the applicant will be promptly notified in writing of the decision reached regarding the claim and the reasoning in support of the decision. The decision by the Director of Highways will be considered final.

3) If the full relief requested is not granted, the aggrieved person will also be advised of his or her right to seek redress through judicial review under applicable State or Federal law. (54 FR 8932, effective March 2, 1989)

Section 518.505 Time Limit For Review

Although mitigating or unusual circumstances may warrant otherwise, it is recommended that the maximum time limit for a review be as set forth in Section 518.500.

SUBPART G: COMPLIANCE WITH FAIR HOUSING LAWS

Section 518.600 Compliance with State and Federal Fair Housing Laws (Civil Rights)

In order to affirmatively implement established State and Federal laws regulating the sale or rental of housing, the District Engineer will:

a) Assist relocatees as required and to the extent possible, in ensuring against discriminatory practices in the sale or rental of housing;

b) Fully inform relocatees of their fair housing rights and options in selecting replacement housing in areas of their choice and the assistance available from the State in ensuring relocatees that their fair housing rights will be protected in accordance with Title VIII of the Civil Rights Act of 1968 and the HUD Amendment Act of 1974;

c) Provide copies of State and Federal publications dealing with fair housing;

d) Advise relocatees of the name and address of the State agency responsible for receiving and processing housing discrimination complaints; and

e) Develop housing resources using only "open housing", i.e., available to all without discrimination on the basis of race, color, religion, sex or national origin. (54 FR 8932, effective March 2, 1989)

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SUBPART H: MOVING PAYMENTS

Section 518.700 Payment Authorization

The Department is authorized to pay, as part of the cost of construction of any project on a State highway or Federal-aid Highway project, relocation payments to eligible displaced persons for their *reasonable* and necessary moving *expenses* (Section 3-107.1 of the Illinois Highway Code (the Code) (Ill. Rev. Stat. 1987, ch. 121, par. 3-107.1, as amended by P.A. 85-1407, effective September 22, 1988) caused by their displacement from real property acquired for such projects. Such payments are limited to the cost of moving personal property located within the acquired right-of-way, except as expressly provided in this Part. The relocation payments will be made by the Department or a local agency acting as agent for the Department. (54 FR 8932, effective March 2, 1989)

Section 518.705 Moving and Related Expense Payments – General Provisions For All Relocated Individuals, Families, Businesses and Farm Operations

a) Any "displaced person" is entitled to payment of moving and related expenses as the Department determines to be reasonable and necessary. The payment will be appropriate to the class, type and nature of the move and the amount of payment will be determined in accordance with the criteria and provisions established in this Section. (54 FR 8937, effective March 2, 1989)

b) Where the acquisition of real property used for a business or farm operation causes a person to vacate a dwelling or other real property not acquired or to move his personal property from other real property not acquired, the additional reasonable and necessary expenses of moving such personalty are eligible for the appropriate moving payments as provided in this Section. (54 FR 8937, effective March 2, 1989)

c) Moving costs cannot generally be paid for more than one move of a displaced person unless it can be shown to be in the public interest. Approval to make more than one moving cost payment must be approved in advance of the move by the Department. Concurrence by the Federal Highway Administration is also required on Federally-aided right-of-way projects. (54 FR 8937, effective March 2, 1989)

d) Moving payments can be made to occupants who succeed those persons who were in occupancy at the time of the initiation of negotiations if such occupancy

occurred prior to acquisition of the property, i.e., prior to the time the subject property was bought and paid for by the State. (54 FR 8937, effective March 2, 1989)

e) In addition to meeting all other eligibility requirements, as set forth in this Part, for a moving payment, the displaced individual, family business, farm operation, or non-profit organization must also have completed the move; must have filed a written claim, adequately supported by receipted bills or other acceptable evidence of expenses incurred if required, and must have submitted the claim for payment on a form to be provided by the Department for this purpose within eighteen months after:

1) For tenants, the date of displacement;

2) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later. (54 FR 8937, effective March 2, 1989)

f) This time period can be waived by the Department for good cause. Such evidence of expenses incurred is not required in the case of a residential move, including mobile homes and the contents thereof when the displaced person has elected to accept a fixed payment. However, it is required if the relocatee has elected to be paid actual expenses. If hardship can be demonstrated, a payment can be made in advance. (54 FR 8937, effective March 2, 1989)

g) Upon completion of the move and submission of the documented claim to the Department, reimbursement will be made directly to the claimant. (54 FR 8937, effective March 2, 1989)

h) By written pre-arrangement between the Department, the relocatee and the mover, the relocatee may present an unpaid moving bill to the Department for direct payment, however, both the relocatee and the mover should be named as co-payees. (54 FR 8937, effective March 2, 1989)

i) There is no limitation on the distance a relocatee moves either interstate or intrastate. However, the maximum allowable expense reimbursement for transportation charges for the displaced person and personal property cannot exceed the costs of moving within a fifty mile radius of the point of displacement unless the Department has determined that relocation cannot be accomplished

within this area. Exceptions, if any, will be allowed to the nearest adequate and available site. (54 FR 8937, effective March 2, 1989)

j) Displaced persons may receive payment for the costs of relocating personal property onto remaining or other lands owned by the relocatee or his landlord if the Department determines that such removal is necessary. (54 FR 8937, effective March 2, 1989)

k) The expenses incurred by the relocatee in advertising, for packing, crating, and transportation may be reimbursable if the Department determines that such advertising is necessary. This should be limited to complicated or unusual moves where advertising is the only feasible method of securing bids. (54 FR 8937, effective March 2, 1989)

l) The Department can claim Federal reimbursement for the cost of any bids or estimates it obtains on Federally-aided right of way projects, not to exceed two bids per move (also see "Self-moves" at Section 518.740(c)). However, if the two bids are incompatible or otherwise unacceptable, a third may be obtained. Fees, for preparing such bids or estimates, should not be derived as a percentage of the total estimated moving cost. (54 FR 8937, effective March 2, 1989)

m) When an actual expense or self move basis is used and the Department determines that it is necessary for a relocated person to store his/her personal property for a reasonable time, the cost of such storage will be a reimbursable item as a part of the total moving expense. However, the period of storage can not exceed twelve months, unless the Department determines that a longer period is necessary. Storage of personal property on the property being acquired or on other property owned or leased by the relocatee is not an eligible expense. (54 FR 8937, effective March 2, 1989)

n) The cost of insurance premiums covering loss and damage of personal property while in transit or necessary storage is a reimbursable item of expense provided however, that such insurance coverage does not exceed the reasonable replacement value of the personal property as determined by the Department. (54 FR 8937, effective March 2, 1989)

o) The reasonable replacement value of property lost, stolen or damaged (not caused by the fault or negligence of the displaced person, his agent or employee) in the process of moving is reimbursable, where insurance to cover such loss, damage,

or theft was not available at a reasonable price and was therefore, not secured by the relocatee, if approved in advance of the move by the Department. (54 FR 8937, effective March 2, 1989)

p) The expenses of removal, reinstallation and reestablishment of machinery, equipment, appliances and other items of personal property which are not acquired, including reconnection of utilities of such items, which do not constitute an improvement to the replacement realty are eligible for reimbursement. This would include charges for packing, crating, unpacking, and uncrating of the personal property and also charges for disconnecting dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, including relocated household appliances, and other personal property, and substitute personal property. This would also include charges for the connection to the utilities on or within the replacement dwelling or building. It also includes modifications to personal property as necessary to adapt said personal property to the replacement structure, or the replacement site, or the utilities at the replacement site and notifications as necessary to adapt the utilities at the replacement site to the personal property. Expenses incurred for the cost of extending utilities from the right-of-way up to the building or other improvement are excluded. Also excluded are the costs of improvements made to the replacement structure or site, except as may be specifically provided for a displaced business as set forth in Section 518.750. (54 FR 8937, effective March 2, 1989)
AGENCY NOTE: Prior to payment of any expenses for removal and reinstallation of such property, the owner and the Department must agree in writing that the property is personalty and that the Department is released from any payment for the property as realty.

q) Any business license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification;

1) Professional services necessary for planning the move of the business personal property, moving the business personal property, and installing the relocated business personal property at the replacement location; and

2) Relettering business signs and replacing business stationary on hand at the time of displacement that is made obsolete as a result of the move. (54 FR 8937, effective March 2, 1989)

r) Other moving related expenses of displaced persons, that are not listed as ineligible, may be paid if the Department determines the same to be reasonable and necessary. Such costs are not applicable to items classified by the Department as real property and retained by the owner through the owner retention process. (54 FR 8937, effective March 2, 1989)

s) Moving costs may be paid whenever it has been determined by the Department that it is necessary to move personal property located within the acquired right-of-way or on remainder lands or on other real property as the result or consequence of a taking of real property for a highway improvement project. (54 FR 8937, effective March 2, 1989)

t) In those cases where a relocatee has died, and who otherwise was or would have been eligible for moving expenses, the moving expense reimbursement, either actual or fixed, may be paid to either the executor or the administrator, depending upon whether or not the displaced person died testate or intestate, or to the person or persons (heirs) who actually incurred the expense of moving the personal property in those cases where the estate has been closed. (54 FR 8943, effective March 2, 1989)

u) If two or more occupants of a displacement dwelling more to separate dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Department, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments. (54 FR 8937, effective March 2, 1989)

v) Upon receipt of any claim for a relocation payment, the claimant will be promptly notified in writing by the Department concerning his/her eligibility for the payment claimed; the amount he/she is entitled to receive and the time and manner in which such payment will be made. (54 FR 8937, effective March 2, 1989)

Section 518.710 Ineligible Moving and Related Expenses

The following expenses are considered ineligible for reimbursement as "actual moving expenses" and a displaced person is not entitled to payment therefor:

a) Any additional operating expenses of a business, farm operation, or non-profit organization incurred because of operating in a new location except as specifically provided for at Section 518.750.

b) Costs of moving any structure or other real property improvement in which the displaced person has reserved ownership, i.e., exercised owner-retention.

c) Improvements to the replacement structure or site except as specifically provided for under the "Business Reestablishment Expenses" described at Section 518.750.

d) Interest on a loan to cover moving expenses.

e) Loss of goodwill.

f) Loss of profits.

g) Loss of trained employees.

h) Personal injury.

i) Any legal fee or other cost of preparing a claim for a relocation payment or for representing the claimant before the Department.

j) Expenses for searching for a replacement dwelling.

k) Any physical changes to the real property including any improvements thereon, at the replacement location except as specifically provided in Section 518.750.

l) Costs for storage of personal property on real property already owned or leased by the displaced person.

m) Moving costs incurred applicable to items classified by the Department as real property and paid for as part of the acquisition payment and retained by the owner through the owner retention process.

n) Any additional expense incurred because of living in a new location except as specifically provided for by this Part. (54 FR 8939, effective March 2, 1989)

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NOTICE OF PROPOSED REPEALER

Section 518.715 Residential Moving Payments For Individuals and Families

a) Eligible displaced persons are entitled to receive payment for *moving* their *personal property* and themselves. The displaced person has the option of receiving a payment on the basis of actual moving and related expenses, as the Department determines to be reasonable and necessary, or as determined from a fixed rate schedule. The Fixed Rate Schedule has been established and approved by the Federal Highway Administration (see Section 518.Exhibit A). It includes a *dislocation allowance* and is based on the number of rooms of personal property to be moved. The *expense and dislocation allowance* (Section 3-107.1a of the Code, as amended by P.A. 85-1407, effective September 22, 1988) to a person occupying a furnished one room unit shared by more than one other person, or a person whose residential move is performed by the Department at no cost to the displaced person, is limited to $50.00.

b) Two or more families occupying the same dwelling unit, who must relocate into separate dwelling units because a single comparable dwelling unit is not available, may elect to be reimbursed either on an actual cost basis or on a schedule basis for each such family. Two or more families occupying the same dwelling unit, who relocate into separate dwelling units on a voluntary basis when a single comparable dwelling unit is available, may elect to be reimbursed either on an actual cost basis or on a schedule basis with the single payment to be divided by the families. A schedule basis payment will be based on the number of rooms actually occupied by each such family plus community rooms utilized by each such family. (54 FR 8937, effective March 2, 1989)

c) When an owner-occupant retains his dwelling, the cost of moving it onto remainder or replacement land is not eligible for reimbursement as a part of the cost of moving personal property. However, if such owner chooses to use said dwelling as a means of moving his personal property, the cost of moving such personal property may be considered eligible for reimbursement. However, payment in these cases would be limited to that provided for by the fixed rate room schedule. (54 FR 8937, effective March 2, 1989)

Section 518.720 *Actual Reasonabl*e Moving *Expenses* (Section 3-107.1 of the Code, as amended by P.A. 85-1407, effective September 22, 1988)

a) A relocated individual or family may be paid the actual, cost of a move as the Department determines to be reasonable and necessary, including packing, crating

and insurance charges, accomplished by a commercial mover provided such relocatee accomplishes the move through the use of a commercial moving firm that is authorized, licensed and regulated as a Motor Carrier of Property by the Illinois Commerce Commission.

1) All subsequent claims for payment must be supported by paid, itemized, and receipted paid bills from said Carriers, or other evidence acceptable to the Department, of expenses incurred.

2) Failure to submit such evidence will result in payment being made in an amount determined from the Fixed Rate Room Count Schedule at Section 518.Exhibit A. (54 FR 8937 and 8938, effective March 2, 1989)

b) Displaced individuals and families may elect to move themselves in order to accomplish residential moves. In such cases the relocated individual or family may be paid actual moving costs incurred if the Department determines such costs to be reasonable and necessary, and if supported by receipted bills or other evidence acceptable to the Department of such expenses incurred, however, such payment cannot in any case, exceed the estimated cost of moving commercially. (54 FR 8937 and 8938, effective March 2, 1989)

c) The costs of transporting individuals and families to the new location are also eligible moving costs. Such costs may be reimbursed on a mileage basis, not to exceed the current State approved rate, for the use of private automobiles, per mile based on the actual number of miles moved, figured on a one-way basis, or in the case of invalid relocatees, actual ground ambulance charges incurred. The actual, reasonable, costs of meals and lodging, when the Department has determined that such costs are required because of unforeseen circumstances or practical necessities of the moving operation, are also eligible if approved in advance by the Department if this is feasible or possible. Temporary lodging, if approved by the Department in advance, is to be used only for short periods of time and is not intended to be used for the purpose of expediting a project and would normally be limited to that time while household goods are in transit to the replacement dwelling. (54 FR 8937 and 8938, effective March 2, 1989)

Section 518.725 Fixed Rate Room Count Moving Expense Schedule

a) A relocated individual or family may elect to receive a moving expense and dislocation allowance, based on a Fixed Rate Room Count Schedule that has been

developed and approved by the Federal Highway Administration. (See Section 518.Exhibit A.)

b) The Fixed Rate Room Count Schedule provides for a graduated payment based on the number of rooms of personal property to be moved.

c) If the displaced person elects to accept the allowable payment under the Fixed Rate Room Count Schedule, all that is required is that he/she complete the move and file a written claim for payment of the exact amount determined from the Fixed Rate Room Count Schedule. Supporting evidence of the cost incurred or information as to how the move was accomplished is not required.

d) The Fixed Rate Room Count Schedule covers three types of occupancy: occupants of unfurnished dwelling units; occupants of furnished dwelling units, including sleeping room tenants; and occupants of mobile homes who move their personal property within the mobile home. (54 FR 8943, effective March 2, 1989)

Section 518.730 Owner-Occupants of Multi-Family Dwellings

In addition to the payment the relocatee can receive for moving his personal property, himself, and his family from his dwelling unit in accordance with this Section, the owner-occupant of a multi-family dwelling is also eligible to receive moving payments for the cost of moving his "Business" personal property, if any, from the other units of the multi-family dwelling as a business move. (54 FR 8938, effective March 2, 1989)

Section 518.735 Filing the Claim For Payment

Form BRW 770, "Claim for Moving Expenses – Non-Business" will be used to claim moving expenses for individuals or families. (54 FR 8937, effective March 2, 1989)

Section 518.740 Payment For Actual Reasonable Moving and Related Expenses – Non-Residential Moves

a) Any business or farm operation which qualifies as a displaced person, as defined in Section 518.20, is entitled to payment for such actual moving and related expenses, including expenses for:

1) Transportation of personal property. Transportation costs for a distance

beyond fifty miles are not eligible, unless the Department determines that relocation beyond fifty miles is justified.

2) Packing, crating, unpacking, and uncrating of the personal property.

3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described in subsection (a)(12). This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

4) Storage of the personal property for a period not to exceed twelve months, unless the Department determines that a longer period is necessary.

5) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

6) Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

7) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

8) Professional services necessary for:

A) Planning the move of the personal property;

B) Moving the personal property; and

C) Installing the relocated personal property at the replacement location.

9) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

10) *Actual direct loss of tangible personal property* incurred *as a result of moving or discontinuing the business or farm operation.* (Section 3.107.1 of the Code, as amended by P.A. 85-1407, effective September 22, 1988) The payment shall consist of the lesser of:

A) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Department determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or

B) The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of fifty miles.)

11) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

12) Purchase of substitute personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

A) The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

B) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Department's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

13) Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for *actual expenses*, not to exceed $1,000, as the Department determines to be reasonable, which are incurred *in searching for a replacement* (Section 3.107.1 of the Code, as amended by P.A. 85-1470, effective September 22, 1988) location, including:

A) Transportation.

B) Meals and lodging away from home.

C) Time spent searching, based on reasonable salary or earnings.

D) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

14) Other moving-related expenses that are not listed as ineligible under Section 518.710, as the Department determines to be reasonable and necessary. (54 FR 8938, effective March 2, 1989)

b) The following requirements apply to payments under this Section:

1) The Department will inform the displaced person, in writing, of the requirements of subsections (b)(2) and (3) as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in Section 518.415.

2) The displaced person shall provide the Department reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Department may waive this notice requirement.

3) The displaced person shall permit the Department to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move. (54 FR 8938, effective March 2, 1989)

c) If the displaced person elects to take full responsibility for the move of the

business or farm operation, the Department may make a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the Department or prepared by qualified staff. The Department may pay, based on a single bid or estimate, for a low cost or uncomplicated move. (54 FR 8938, effective March 2, 1989)

d) Upon request the claimant shall transfer to the Department ownership of any personal property that has not been moved, sold, or traded in. (54 FR 8938, effective March 2, 1988)

e) The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

1) The depreciated reproduction cost of the sign, as determined by the Department, less the proceeds from its sale; or

2) The estimated cost of moving the sign, but with no allowance for storage. (54 FR 8938, effective March 2, 1989)

Section 518.745 Fixed Payment For Moving Expenses − Non-Residential Moves

a) A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by Sections 518.740 and 518.750. Such fixed payment, except for payment to a non-profit organization, shall equal *the average annual net earnings of the business,* as computed in accordance with subsection (e), but *not less than $1,000 nor more than $20,000.* (Section 3.107.1b of the Code, as amended by P.A. 85-1407, effective September 22, 1988) The displaced business is eligible for the payment if the Department determines that:

1) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, the business vacates or relocates from its displacement site.

2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Department determines that it will not suffer a substantial loss of its existing patronage; and

3) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Department, and which are under the same ownership and engaged in the same or similar business activities.

4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.

5) The business is not operated at the displacement site solely for the purpose of renting the site to others.

6) The business contributes-materially, as defined in Section 518.20, to the income of the displaced person during the two taxable years prior to displacement. (54 FR 8939 and 8940, effective March 2, 1989)

b) In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

1) The same premises and equipment are shared;

2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

4) The same person or closely related persons own, control, or manage the affairs of the entities. (54 FR 8939 and 8940, effective March 2, 1989)

c) A displaced farm operation, as defined in Section 518.20, may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its *average annual net earnings* as computed in accordance with subsection (e), but *not less than $1,000 nor more than $20,000.* (Section 3.107.1b of the Code, as amended by P.A. 85-1407, effective September 22, 1988) In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the Department determines that:

1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

2) The partial acquisition caused a substantial change in the nature of the farm operation. (54 FR 8939 and 8940, effective March 2, 1989)

d) A displaced non-profit organization may choose a fixed payment of *$1,000* to *$20,000*, (Section 3.107.1b of the Code, as amended by P.A. 85-1407, effective September 22, 1988) in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Department determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A non-profit organization is assumed to meet this test, unless the Department demonstrates otherwise. Any payment in excess of $1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses. (54 FR 8939 and 8940, effective March 2, 1989)

e) The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Department determines it can be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Department proof of net earnings through income tax returns, certified financial statements, or other evidence. (54 FR 8939 and 8940, effective March 2, 1989)

Section 518.750 Reestablishment Expenses – For Small Businesses, Farm Operations, and Non-Profit Organizations

a) In addition to the payments available under Section 518.745, a small business (as defined in Section 518.20), farm or non-profit organization is entitled to receive a payment, *not to exceed $10,000* (Section 3-107.1 of the Code) for eligible,

reasonable, and necessary, as determined by the Department, expenses actually incurred in relocating and reestablishing such small business, farm or non-profit organization at a replacement site. (58 FR 26072, April 30, 1993)

b) Reestablishment expenses will be reasonable and necessary, as determined by the Department. They include, but are not limited to, the following:

1) Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.

2) Modifications to the replacement real property to accommodate the business operation or to make replacement structures suitable for conducting the business.

3) Construction and installation costs for exterior signing to advertise the business.

4) Provision of utilities from the right-of-way to the improvements on the replacement site, i.e., from the road/street in to the building.

5) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling, or carpeting.

6) Licenses, fees and permits when not paid as part of moving expenses.

7) Feasibility surveys, soil testing and marketing studies.

8) Advertisement of replacement location when not paid as part of moving expenses.

9) Professional services in connection with the purchase or lease of a replacement site.

10) Increased costs of operation during the first two years at the replacement site for such items as:

A) Lease or rental charges,

B) Personal or real property taxes,

C) Insurance premiums, and

D) Utility charges, excluding impact fees.

11) Impact fees or one-time assessments for anticipated heavy utility usage.

12) Other items that the Department considers essential to the reestablishment of the business.

c) The folowing is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

1) Purchase of capital assets, such as office furniture, filing cabinets, machinery or trade fixtures.

2) Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation.

3) Interest on money borrowed to make the move or to purchase the replacement property.

4) No reestablishment expense payment can be made to any part-time business which is conducted in the home when the business income generated does not contribute materially to the household income.

5) No reestablishment expense payment can be made to a person whose sole business at a displacement dwelling is the rental of such dwelling to others.

6) A reestablishment payment, cannot be made if a fixed moving payment has been claimed or paid. (54 FR 8938 and 8939, effective March 2, 1989)

SUBPART I: REPLACEMENT HOUSING PAYMENTS

Section 518.800 General Provisions For Replacement Housing Payments

a) No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling has been made available to such person. Where possible, three or more comparable replacement dwellings will be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

1) The person is informed of its location and;

2) The person has time to negotiate and enter into a purchase agreement or lease for the property; and

3) Subject to safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in time to complete the purchase or lease of the property. (54 FR 8940, effective March 2, 1989)

b) Individuals and families displaced from a dwelling acquired for a highway project are eligible for replacement housing payments provided the additional costs comprising the replacement housing payment are actually incurred. (54 FR 8940, effective March 2, 1989)

c) The displaced individual or family is not required to relocate to the same occupancy (owner or tenant) status, but has other options according to his/her ownership status and tenure of occupancy. (54 FR 8940, effective March 2, 1989)

d) Only one replacement housing payment can be made for each dwelling unit except in the case of multi-family occupancy of a single family dwelling unit or in the case of subsequent occupants as described under "Replacement Housing as Last Resort" (see Subpart M). (54 FR 8940, effective March 2, 1989)

Section 518.805 Occupancy Provisions

In addition to meeting the tenure of occupancy and other requirements, a displaced person must secure and occupy decent, safe, and sanitary replacement housing as defined in Section 518.20. Ordinarily, the cost of the land and dwelling unit at the time of purchase by the displaced person will constitute the "actual cost" in the replacement housing payment determination, however, in the case of replacement dwellings purchased prior to the initiation of negotiations the current fair market value of the same will be used when determining the replacement housing payment due. (54 FR 8942, effective March 2, 1989)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 518.810 Inspection For Decent, Safe and Sanitary Housing

a) Before any replacement housing claim for payment can be considered, an inspection must be made by a Departmental representative and a determination made that the replacement housing selected is decent, safe and sanitary. Form BRW 953, "Dwelling Inspection (DDS)" must be completed to document this inspection and submitted with any claim for payment. (54 FR 8942, effective March 2, 1989)

b) The Department may also utilize the services of any public agency ordinarily engaged in housing inspections to make the inspection. Such determination by the Department, or its agent, that a dwelling meets the standards for decent, safe and sanitary housing is made solely for the purpose of determining the eligibility of relocated individuals and families for payments and is not representation for any other purpose. (54 FR 8942, effective March 2, 1989)

c) If it is not possible, under the circumstances, for the Department, or its agent, to make the necessary inspection or to secure the needed inspection through a competent third party, a certification from the displacee that he/she has occupied decent, safe and sanitary housing will be sufficient to establish the displacee's eligibility for payment. (54 FR 8942, effective March 2, 1989)

Section 518.815 Statement of Eligibility to Lending Agency

a) In order to assist displaced persons in obtaining replacement housing, the Department will, at the displacee's request, state to any interested party, financial institution or lending agency, that the displacee will be eligible to receive a replacement housing payment in a specified amount provided he/she purchases and occupies a decent, safe and sanitary inspected dwelling within the one year time limit. (54 FR 8936, effective March 2, 1989)

b) A displaced person who has entered into a contract for the construction or rehabilitation of a replacement dwelling and, for reasons beyond his/her reasonable control, cannot occupy the replacement dwelling within the time period set forth in subsection (a) shall be considered to have purchased and occupied the dwelling as of the date of such contract. Payment of the replacement housing payment would be deferred until actual occupancy was accomplished. (54 FR 8936, effective March 2, 1989)

c) A displaced tenant or owner "occupies" a replacement dwelling, within the meaning of this Section, only if the dwelling is his/her permanent place of residence, and he/she satisfies the eligibility requirements set forth in Section 518.145. (54 FR 8936, effective March 2, 1989)

d) Any person who has obtained legal ownership of a replacement dwelling or land upon which his/her replacement dwelling is constructed, either before or after displacement, and occupies the replacement dwelling after being displaced, but within the time limit specified in subsection (a), is eligible for a replacement housing payment if the replacement dwelling meets decent, safe and sanitary standards. (54 FR 8936, effective March 2, 1989)

e) In order to assist displaced persons in obtaining replacement housing, the Department will, at the displacee's request, state to any interested party, financial institution or lending agency, that the displacee will be eligible to receive a replacement housing payment in a specified amount provided he/she purchases and occupies the inspected dwelling within the time limits specified in subsection (a). (54 FR 8936, effective March 2, 1989)

Section 518.820 Application For Replacement Housing or Rent Supplement Payments

a) Applications for replacement housing or rent supplement payments shall be in writing on a claim form to be provided by the Department. The application shall be filed no later than six months after the expiration of the one year period specified except that in condemnation cases, such period shall be extended to six months after final adjudication. (54 FR 8937, effective March 2, 1989)

b) In the application, the individual or family must indicate that, to the best of their knowledge and belief, the replacement dwelling meets the standards for decent, safe and sanitary housing and that they are eligible for the payment requested. (54 FR 8937, effective March 2, 1989)

c) The payments will be made directly to the relocated individual or family, or upon written instruction from the relocated individual or family, jointly payable to the lessor, or the seller, or other designated party, for use towards the purchase or rent of a decent, safe and sanitary dwelling. In cases where an applicant otherwise qualifies for a replacement housing or rent supplement payment, and upon his specific request in the application, the Department will make such payments into

escrow prior to the displacee's moving. (54 FR 8937, effective March 2, 1989)

d) Form BRW 963, "Claim for Payment − Replacement Housing Supplement (Owner/Occupant)" will be used by owner-occupants to claim supplemental replacement housing payments as supported by Form BRW 962, "Payment Evaluation Form for Replacement Housing Supplement (Purchase)" and BRW Form 971. The original and three signed copies of the same should be forwarded to the Department to be processed for payment. (54 FR 8937, effective March 2, 1989)

e) Applications for rent supplements are submitted on Form BRW 965, "Claim for Payment - Rent Supplement", supported by Form BRW 966, "Payment Evaluation Form for Replacement Housing Supplement (Rent)", and BRW Form 971. (54 FR 8937, effective March 2, 1989)

f) "Rental Assistance" and "Downpayment Assistance" computations are made using Form BRW 1076, "Rental Assistance and Downpayment Assistance Determination Computation". The relocated individual shall attach this documentation to BRW Form 965 when requesting a rent supplement and to BRW Form 963 when requesting a downpayment assistance payment. (54 FR 8937, effective March 2, 1989)

g) Upon receipt of a claim for a replacement housing supplement, prompt notice of the receipt and disposition of the claim will be mailed directly to the claimant. Form BRW 950, "Notice of Receipt of a Claim for a Relocation Payment" properly completed, will be used for this purpose. (54 FR 8937, effective March 2, 1989)

Section 518.825 Advance Replacement Housing Payments In Condemnation Cases

Property owners should not be deprived of the earliest possible payment of replacement housing supplements rightfully due. An advance replacement housing payment can be computed and paid to a property owner at written request if the determination of the State's acquisition price will be delayed pending the outcome of condemnation proceedings. Since the amount of the replacement housing payment cannot be determined due to the pending condemnation proceedings, a provisional replacement housing payment may be calculated by deeming the State's maximum offer for the property as the acquisition price. Payment of such amount may be made upon the owner-occupant's agreement that:

a) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined by the Department as necessary to acquire a comparable, decent, safe and sanitary dwelling, whichever is less; and

b) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the provisional replacement housing payment exceeds the lesser of the price paid for the State's determined cost of a comparable dwelling, the displaced person(s) will refund to the State, from the condemnation judgment, an amount equal to the amount of the excess payment so determined. However, such displaced person(s) shall not be required to refund more than the amount of the replacement housing payment advanced. If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award, as applicable to the dwelling acquired, as the acquisition price. (54 FR 8937, effective March 2, 1989)

Section 518.830 Nature of Acquisition and Offer

The nature of the taking, i.e., whole take or partial take, farmstead, will be taken into consideration when computing the replacement housing payment as well as the final "acquisition price". The maximum replacement housing payment to be claimed cannot exceed the difference between what the Department paid, or proposes to pay, whichever is greater, and the asking price of a "comparable" dwelling. (54 FR 8940 and 8941, effective March 2, 1989)

Section 518.835 Whole Takes

The maximum replacement housing payment, if any, is the difference between what the Department paid for the acquired dwelling and the purchase price of a replacement dwelling, not to exceed the adjusted asking price of a comparable dwelling as determined by the Department. (54 FR 8940 and 8941, effective March 2, 1989)

Section 518.840 Partial Takes

a) If the acquired dwelling is located on a tract typical in size for residential use in the area, the maximum replacement housing payment is the adjusted asking price of a comparable replacement dwelling, as determined by the Department, on a tract typical in size for its area less the acquisition price of the acquired dwelling

and the tract on which it is located. In the case of a partial taking of a typical lot, the proper elements of acquisition cost or amount paid for the acquired dwelling, for relocation payment purposes, includes the amounts paid for the dwelling and appurtenant structures, special land improvements, the land taken, temporary easements, if any, and damages to the remainder. The sum of these amounts is then compared to the cost of the selected comparable dwelling to arrive at the replacement housing supplement due. In any case, the maximum housing payment due will be based on the lesser of the purchase price of the actual replacement dwelling or the adjusted asking price of the comparable selected by the Department. (54 FR 8940 and 8941, effective March 2, 1989)

b) The mortgage interest differential, if any, and the eligible closing costs are then added to this amount to determine the total replacement housing payment due. (54 FR 8940 and 8941, effective March 2, 1989)

Section 518.845 Dwelling on Land with Higher and Better Use

When the acquired dwelling is located on a tract where the fair market value has been established based on a higher and better use than residential, the maximum replacement housing payment is the adjusted asking price of a comparable replacement dwelling, as determined by the Department, on a tract typical size for residential use in its area, less the acquisition price of the acquired dwelling plus the actual acquisition price of that portion of the acquired land which represents a tract typical for residential use in the area. (54 FR 8940 and 8941, effective March 2, 1989)

Section 518.850 Multiple Occupancy of Same Displacement Dwelling Unit

If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Department, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Department determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments. (54 FR 8937, effective March 2, 1989)

Section 518.855 Joint Residential and Business Use

a) If displaced individuals or families occupy living quarters on the same premises as a displaced business, farm or non-profit organization, such individuals or families are to be treated separately for purposes of determining entitlement to

relocation payments. If the displacement dwelling unit is part of a property that contains space used for non-residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling unit itself will be considered its acquisition cost when computing the price differential. (54 FR 8941, effective March 2, 1989)

b) The procedure for computing replacement housing payment amounts to owners of multi-family dwellings who occupy one unit of such dwellings is as follows:

1) The comparable dwelling should be the same as that acquired, i.e., if the acquired property is a triplex, the comparable should be a triplex. If comparables are not available, then structures of the next lowest density must be used. If there are not any available comparable multi-family structures to be found, then the comparison of the owner's living unit would be to a single family residence. A higher density structure should never be used as a comparable.

2) The value of the owner's living unit is to be used as the base for the replacement housing payment determination – not the entire fair market value (acquisition price) of the subject property. The replacement housing determination is that difference, if any, between the value of the owner's living unit and the value of a living unit in the most comparable available property. If the comparable is a triplex, the replacement housing payment is based on the value of only one of the three units; if a duplex, the payment is based on one of the two units; if a single family dwelling, the payment is based on the entire value of the dwelling. The other living units of a multi-family dwelling cannot be included in the value of a comparable because these are considered as income producing and not part of the owner's personal living area. (54 FR 8941, effective March 2, 1989)

Section 518.860 Payment After Death

A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

a) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

b) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy the replacement dwelling selected in accordance with this Part.

c) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate. (54 FR 8943, effective March 2, 1989)

Section 518.865 Insurance Proceeds

To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (54 FR 8941, effective March 2, 1989)

Section 518.870 Occupancy Requirements For Displacement or Replacement Dwelling

No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements, set forth in Section 518.145, for a reason beyond his or her control, including:

a) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal agency funding the project, or the Department; or

b) Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the Department. (54 FR 8940, effective March 2, 1989)

Section 518.875 Conversion of Payment

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment is eligible to receive a purchase payment if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the purchase payment. (54 FR 8942, effective March 2, 1989)

SUBPART J: REPLACEMENT HOUSING PAYMENTS FOR

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

ONE HUNDRED AND EIGHTY DAY OWNER WHO PURCHASES

Section 518.900 General Requirements For One Hundred and Eighty Day Owner

a) A displaced owner-occupant of a dwelling may receive additional payments, the combined total of which may *not exceed $22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) for the additional costs necessary:

1) To purchase replacement housing (subject to certain limitations);

2) To compensate the owner for the loss, if any, of favorable financing on his/her existing mortgage in the financing of replacement housing; and

3) To reimburse the owner for incidental expenses incident to the purchase of replacement housing when such costs are incurred as specified in Section 518.5000. (54 FR 8941 and 8942, effective March 2, 1989)

b) A displaced person is eligible for the replacement housing payment for a one hundred and eighty day homeowner-occupant if the person:

1) Has *actually owned and occupied* the displacement dwelling *for not less than one hundred and eighty day*s immediately *prior to the* date of the *initiation of negotiations;* and

2) *Purchases and occupies* a decent, safe, and sanitary *replacement dwelling* within *one year* after the later of the following dates (except that the Department may extend such one year period consistent with the standards in Section 518.870.):

A) *The date* the person *receives final payment* for *the* displacement *dwelling* or, in the case of condemnation, the date the required amount is deposited with the court, *or*

B) The date the person *moves from the* displacement *dwelling.* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) (54 FR 8941 and 8942, effective March 2, 1989)

c) For the purpose of implementation of the provisions of this Section, a displaced person "purchases" a dwelling when he/she:

1) Purchases and rehabilitates a substandard dwelling; or

2) Relocates to a dwelling which he or she owns or purchases; or

3) Constructs a dwelling on a site he or she owns or purchases; or

4) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or

5) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value. (54 FR 8941 and 8942, effective March 2, 1989)

d) The actual cost provision limits the reimbursable construction cost to only those costs necessary to construct a dwelling comparable to the one acquired. The cost of adding new features simply to bring the cost up to the maximum replacement housing payment is not eligible for reimbursement. (54 FR 8941 and 8942, effective March 2, 1989)

Section 518.905 Amount of Replacement Housing Payment

a) The replacement housing payment for an eligible one hundred and eighty day homeowner-occupant may *not exceed $22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988), except as provided for under Subpart M, "Replacement Housing as Last Resort". The maximum payment is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date such person is initially offered a comparable replacement dwelling, whichever is later. The payment shall be the sum of:

1) The amount by which the cost of a comparable replacement dwelling exceeds the acquisition cost of the displacement dwelling as defined under "Price Differential" in subsection (b); and

2) The *increased interest costs* (Section 3-107.1c of the Code, as amended by

P.A. 85-1407, effective September 22, 1988) and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling; and

3) The *reasonable expenses incident to the purchase of the replacement dwelling.* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) (54 FR 8940 and 8941, effective March 2, 1989)

b) The price differential to be paid is *the amount* which must be *added to the acquisition cost* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) of the displacement dwelling to provide a total amount equal to the lesser of:

1) *The reasonable cost of a comparable replacement dwelling as determined by the Department;* or (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988)

2) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person. (54 FR 8940 and 8941, effective March 2, 1989)

c) To qualify for the full amount the displaced owner-occupant, in addition to meeting any other stated requirements, must also purchase and occupy a decent, safe and sanitary dwelling equal to or higher in price than the acquisition price of the acquired dwelling. In other words, he/she must actually spend this additional amount or more in securing replacement housing in order to receive the maximum payment. (54 FR 8940 and 8941, effective March 2, 1989)

d) If the displaced owner-occupant on his/her own voluntarily purchases and occupies a decent, safe and sanitary dwelling at an amount less than the price described in subsection (c), the replacement housing payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling. (54 FR 8940 and 8941, effective March 2, 1989)

e) If the displaced owner-occupant on his/her own voluntarily purchases and occupies a decent, safe and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment will be made. (54 FR

8940 and 8941, effective March 2, 1989)
AGENCY NOTE: As an example, the value of the subject property is determined to be $40,000. A study of comparable properties indicates an estimated adjusted selling price of $45,000. On this basis, the replacement housing payment would be $5,000. In order to receive the $5,000 payment, the displaced owner-occupant would have to purchase a decent, safe and sanitary dwelling costing $45,000 or more. If he/she purchased a replacement dwelling for $44,000, he/she would receive a $4,000 payment, and so on. If he/she purchased a replacement dwelling for $40,000 or less, he/she would receive no payment.

f) It is the Department's responsibility to make available a comparable replacement dwelling unit and relocate the displaced person to his/her original ownership status if this is his/her desire. If an alternate tenancy status is desired by the displacee, the Department will make a reasonable effort to accommodate the request. If optional housing is available, the supplement, if any, will be based on the specified option and computed as prescribed in subsections (g) through (n). (54 FR 8940 and 8941, effective March 2, 1989)

g) When a single family dwelling is owned by several persons, and occupied by only some of the owners, the replacement housing payment will be the lesser of:

1) The difference between the collective owner-occupants' share of the acquisition cost of the acquired dwelling and the actual cost of the replacement dwelling; or

2) The difference between the total acquisition cost of the acquired dwelling and the amount determined by the Department as necessary to purchase a comparable dwelling. (54 FR 8940 and 8941, effective March 2, 1989)

h) If the displaced owner-occupants do not purchase and occupy a decent, safe and sanitary dwelling, the occupants will be entitled to receive a rent supplement payment if the occupants rent and occupy a decent, safe and sanitary dwelling as defined in Section 518.20. (54 FR 8940 and 8941, effective March 2, 1989)

i) If the application of this procedure, because of unusual circumstances, creates an undue hardship on the occupant(s) with a partial ownership, the full facts along with a recommended solution should be submitted to the Department for further resolution. (54 FR 8940 and 8941, effective March 2, 1989)

j) The Department will determine the amount of the replacement housing payment due based on the "three comparable" method (or the "new construction" method) in accordance with guidelines set forth below in subsections (k), (l), and (m). (54 FR 8940 and 8941, effective March 2, 1989)

k) The Department will determine the adjusted asking price of a comparable dwelling by analyzing at least three comparable dwellings which are available on the private market and which meet the requirements of comparability. Form BRW 971, "Replacement or Rental Listings," shall be used to describe the selected comparables. Less than three comparables may be used for this determination when additional comparable dwellings are not available and the Department documents the parcel file to this effect. The selection of such comparables and the computation of the housing supplement will be by a qualified State employee and by a person other than the appraiser or review appraiser on the parcel involved. The comparables selected will be those most nearly comparable and equal to or better than the subject property. (54 FR 8940 and 8941, effective March 2, 1989)

l) The upper limit of a replacement housing payment will be based on the adjusted asking price of a comparable replacement dwelling:

1) If available, at least three comparable replacement dwellings will be examined and the payment computed on the basis of that dwelling which is most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price to reflect probable selling price, of any selected dwelling to the extent justified by local market data.

2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site does not contain a swimming pool or a green house), the contributory value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

3) If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder could be a buildable residential lot, the Department may offer to purchase the entire property. If the owner refuses to sell the remainder to the Department, the fair market value of the remainder may be added to the acquisition cost of

the displacement dwelling for purposes of computing the replacement housing payment.

4) Comparable replacement dwellings shall be selected to the maximum extent feasible from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

5) The relocatee must be advised in writing of the address of the specific comparable that was selected and the adjusted price or rent of the same which was used as the basis for establishing the upper limit of the replacement housing payment. This information must be included in the "Notice" as described in Section 518.745 which is furnished to the displaced owner or tenant. (54 FR 8940 and 8941, effective March 2, 1989)

m) In the absence of at least one decent, safe and sanitary comparable and subject to prior approval by the Department, the amount of the replacement housing supplement may be determined by obtaining from a qualified and reputable builder, acceptable to the Department, an estimate of the cost of building a new comparable dwelling, including all necessary materials, which is functionally comparable to the old dwelling. Added to this would be the estimated cost of a parcel of residential land, improved with the necessary utilities, typical in size for the area or neighborhood. The acquisition price would be subtracted from the cost of said new home plus the land to determine the replacement housing payment due, as provided in this Section, the owner-occupant actually incurs at least this additional cost and subject to a *$22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) statutory maximum in any case. The necessity and the determination to use "New Construction" should be noted in the Preliminary or Project Relocation Plans. (54 FR 8940 and 8941, effective March 2, 1989)

n) If the relocatee requests assistance in finding replacement housing, he must be offered housing which is comparable and available for purchase within the total offered amount. When such housing is no longer available, the Department will determine a new replacement housing amount, based on then available housing which is equal to or better than the dwelling acquired and meets the other comparable criteria. However, in no event will the new replacement housing payment be reduced to less than the amount originally computed. (54 FR 8940

and 8941, effective March 2, 1989)

Section 518.910 Increased Interest Payments

a) Increased interest payments are provided to offer some relief to displaced persons for the *increased interest costs* incurred when *financing replacement dwellings.* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) (54 FR 8941, effective March 2, 1989)

b) The amount of the increased interest payment will be computed in accordance with the following:

1) The payment will be the amount which will reduce the mortgage balance on the replacement dwelling to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments will include other debt service costs, if not paid as incidental costs, and will be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least *one hundred and eighty days prior to the initiation of negotiations.* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) Eligibility for the increased mortgage interest payment will also be contingent upon a mortgage being placed on the replacement dwelling. Such payments will be computed as provided in this subsection.

2) The payment will be based on the unpaid mortgage balances on the displacement dwelling; however, in the event the displaced person obtains a smaller mortgage than the mortgage balance used in computing the "Buydown" determination, the payment will be prorated and reduced accordingly by dividing the amount of the actual replacement mortgage by the computed eligible replacement mortgage amount. This calculation will provide a percentage factor which can then be applied to the computed "Buydown" amount to arrive at the reduced payment due.

3) In the case of a home equity loan, the unpaid balance will be that balance which existed *one hundred and eighty days prior to the initiation of negotiations* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) or the balance on the date of acquisition, whichever is less.

4) The payment will be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

5) The interest rate on the new mortgage used in determining the amount of the payment cannot exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

6) Purchaser's points and loan origination or assumption fees, but not seller's points, will be paid to the extent:

   A) That the purchaser's points are not paid as incidental expenses;

   B) The purchaser's points do not exceed rates normal to similar real estate transactions in the area;

   C) The Department determines the purchaser's points to be necessary; and

   D) The computation of such points and fees will be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance.

7) The displaced person will be advised of the approximate amount of this payment as soon as the facts relative to the person's current mortgages are known and the payment will be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

8) The payment described in this Section may be made directly to the displaced individual or family, or upon written instruction from the displaced individual or family, directly to the mortgagee of the replacement dwelling by naming the mortgagee as a co-payee on the warrant.

9) In the case of a partial taking and when the dwelling is located on a tract normal in size for residential use in the area, the interest payment shall be

reduced to the percentage ratio that the acquisition price bears to the before value. When the mortgage requires the entire mortgage balance to be paid because of the acquisition and it is necessary to refinance, the reduction shall not apply.

10) In the case of a partial taking and when a dwelling is located on a tract larger in size than normal for residential use in the area, the total mortgage balance shall be reduced to the percentage ratio that the value of the residential portion bears to the before value for computational purposes. This reduction shall apply whether or not it is required that the entire mortgage balance be paid.

11) The interest payment on multi-use properties shall be reduced to the percentage ratio that the residential value of the multi-use property bears to the before value.

12) If a dwelling is located on a tract where the fair market value is established on a higher and better than residential use, and if the mortgage is based on residential value, the interest payment shall be computed as provided in subsection (b). If the mortgage is based on the higher use, however, the interest payment shall be reduced to the percentage ratio that the estimated residential value of the parcel has to the before value. (54 FR 8940 and 8941, effective March 2, 1989)

Section 518.915 Incidental Expenses – Amount of Payment

The incidental expenses to be paid are those necessary and *reasonable* costs actually *incurred* by the *displaced person incident to the purchase of a replacement dwelling,* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) and customarily paid by the buyer, including:

a) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

b) Lender, FHA, or VA application and appraisal fees.

c) Loan origination or assumption fees that do not represent prepaid interest.

d) Certification of structural soundness and termite inspection when required.

e) Credit report.

f) Owner's and mortgagee's evidence of title e.g. title insurance, not to exceed the costs for a comparable replacement dwelling.

g) Escrow agent's fee.

h) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

i) Such other costs as the Department determines to be incidental to the purchase. (54 FR 8941, effective March 2, 1989)

Section 518.920 Combined Payments Not to Exceed $22,500

If an owner occupant is otherwise qualified for a payment under this Subpart, but has previously received a rent supplement payment, such rent supplement amount will be deducted from the amount to which he is entitled under this Section. In no event may the combined payments *exceed $22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988). (54 FR 8940, effective March 2, 1989)

Section 518.925 Owner Retention

Owners may be allowed the option of retaining their dwellings. In cases of owner retention and occupancy, the replacement housing payment shall be computed in accordance with the following: If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be considered to be the sum of:

a) The moving expenses and the cost of restoration to a condition comparable to that prior to the move (excluding any betterments); and

b) The costs required and incurred to make the unit a decent, safe, and sanitary replacement dwelling; and

c) The current fair market value for residential use, of the replacement site, unless, moved to the remainder, and unless the claimant rented the displacement site and

there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

d) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment. (54 FR 8941, effective March 2, 1989)

SUBPART K: SUPPLEMENTAL PAYMENT FOR
ONE HUNDRED AND EIGHTY DAY OWNER WHO RENTS

Section 518.1000 General Information on Supplemental Payment

An owner-occupant eligible for a replacement housing purchase supplement payment who elects to rent a replacement dwelling is eligible for a rent supplement payment *not to exceed* either *$5,250* or the amount such owner would have been eligible to receive as a purchase replacement housing payment, whichever is less. (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) (54 FR 8941, effective March 2, 1989)

Section 518.1005 Computation and Disbursement of Payment

The payment shall be computed and disbursed in accordance with Section 518.2005, except that the present rental rate shall be economic rent. (54 FR 8941, effective March 2, 1989)

SUBPART L: REPLACEMENT HOUSING PAYMENT FOR NINETY DAY OCCUPANTS

Section 518.2000 Eligibility For Ninety Day Occupants

A tenant or owner-occupant displaced from a dwelling is entitled to a payment *not to exceed $5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) for rental assistance, as computed in accordance with Section 518.2005 or downpayment assistance, as computed in accordance with Section 518.2010, if such displaced person:

a) Has *actually and lawfully occupied* the displacement dwelling *for* at least *ninety days* immediately *prior to the initiation of negotiations;* and (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988)

b) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within one year (unless the Department extends this period for good cause) after:

1) For a tenant, the date he or she moves from the displacement dwelling; or

2) For an owner-occupant, the later of:

A) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the required amount is deposited with the court; or

B) The date he or she moves from the displacement dwelling. (54 FR 8941 and 8942, effective March 2, 1989)

Section 518.2005 Rental Assistance Payment

a) An eligible displaced person who rents a replacement dwelling is entitled to a payment *not to exceed $5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) for rental assistance. Such payment shall be forty two times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

1) The monthly rent and estimated average monthly cost of utilities for a comparable, as determined by the Department, replacement dwelling; or

2) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person. (54 FR 8941 and 8942, effective March 2, 1989)

b) The base monthly rental for the displacement dwelling is the lesser of:

1) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Department. (For an owner-occupant, the Department will use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, the Department will use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances; or

2) Thirty percent of the displaced person's average gross household income. (If the displaced person refuses to provide appropriate evidence of income

or is a dependent, the base monthly rental will be the present average monthly rent plus utilities, as determined by the Department. A full time student or resident of an institution will be assumed to be a dependent, unless the person demonstrates otherwise.) (54 FR 8941 and 8942, effective March 2, 1989)

c) The amount of the rental payment, set forth in subsection (b)(1) and (2), shall be disbursed in a lump sum amount unless the Department determines on a case by case basis, for good cause, that the payment should be made in installments. If paid in installments the full amount computed vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing. (54 FR 8941 and 8942, effective March 2, 1989)

d) If a tenant, after moving to a decent, safe and sanitary dwelling, relocates again within the one year period to a higher cost rental unit, he may present another claim for the amount in excess of what was originally claimed, but not to exceed the total rent supplement originally computed by the Department. (54 FR 8941 and 8942, effective March 2, 1989)

Section 518.2010 Downpayment Assistance Payment

a) An otherwise eligible displaced residential tenant or homeowner, who has occupied the acquired dwelling for ninety days or more prior to the initiation of negotiations to acquire such dwelling, who purchases and occupies a replacement dwelling, is entitled to a downpayment assistance payment in an amount not to exceed the amount such person would have been eligible to receive as a rental assistance payment as computed under the provisions of Section 518.2005 if the person had rented a comparable replacement dwelling. Thus, the maximum downpayment assistance payment to be claimed and paid, including eligible incidental expenses, cannot exceed the rental assistance payment that could have been claimed, not to exceed in any case the actual downpayment made plus eligible incidental expenses, if less.

1) "Required downpayment" means the down payment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the "required downpayment" shall be the amount which the Department

determines is necessary for the downpayment.

A) Added to the amount determined in subsection (a)(1) shall be the amount required to be paid by the purchaser as points or origination or loan services fee, if such fees are normal to real estate transactions in the area, on the comparable dwelling, or the replacement dwelling, whichever is the lesser.

B) Eligible incidental expenses are also reimbursable as provided in Section 518.915.

C) Upon purchase and occupancy of a decent, safe and sanitary dwelling within the prescribed time limits, and the submittal of a claim for payment with the required documentation on a form BRW 963 to be provided by the Department, the displaced person will be reimbursed in the amount of the eligible downpayment and the eligible incidental expenses as computed and determined by the Department. A displaced one hundred and eighty day homeowner-occupant is not eligible for this downpayment assistance payment.

D) The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price and to the incidental expenses and such downpayment and incidental costs claimed must be shown in the closing statement.

2) The payment to a short term, at least ninety days but less than one hundred and eighty days, displaced homeowner cannot exceed the amount such owner would have received under Section 518.920 if he or she had met the one hundred and eighty day occupancy requirement. (54 FR 8942, effective March 2, 1989)

b) The full amount of the replacement housing payment for downpayment assistance will be applied toward the purchase price of the replacement dwelling and related eligible incidental expenses as recited at Section 518.915, and acceptable documentation must be furnished to the Department. (54 FR 8942, effective March 2, 1989)

SUBPART M: REPLACEMENT HOUSING AS LAST RESORT

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 518.3000 Purpose For Last Resort Housing

The purpose of Subpart M is to prescribe the provisions and procedures to provide for replacement housing as last resort when it is determined that a State or Federally-aided project cannot proceed to actual construction on a timely basis because *comparable replacement sale or rental housing is not available* for highway displacees and cannot otherwise be made available (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) to them. (54 FR 8943, effective March 2, 1989)

Section 518.3005 Eligibility Requirements For Last Resort Housing

a) A displaced person cannot be required to move from his or her dwelling unless and until at least one comparable replacement dwelling is made available to that person. Last resort housing may also, at the discretion of the Department, be provided for displacees who are ineligible for a rent supplement or a replacement housing payment e.g., persons who have occupied the property for less than ninety days prior to the initiation of negotiations or who began occupancy after the start of negotiations, when such displacees cannot afford comparable rental replacement housing using their own funds, i.e., such housing is not available at rental rates that are within thirty percent of the person's gross monthly household income.

1) When the replacement housing payments described in subsection (a) are not sufficient to provide such housing, additional measures may be needed. The Department is authorized to take additional measures when it determines that there is a reasonable likelihood that the project will not be able to proceed to completion in a timely manner because no comparable replacement dwelling will be available on a timely basis to a person to be displaced. The Department's obligation to ensure that a comparable replacement dwelling is available will be met when such a dwelling, or assistance necessary to provide such a dwelling, is offered.

2) This Part does not deprive any displaced person of any rights the person may have under the Uniform Act or any implementing regulations, to receive relocation assistance, moving costs or replacement housing payments for which he/she may be otherwise eligible nor of his/her freedom of choice in the selection of replacement housing.

3) The State may not require a displaced person, without his/her written

consent, to accept a dwelling provided by the State under this Part in lieu of his/her acquisition payment, if any, for the real property from which he/she is displaced or the replacement housing or rent supplement payment for which he/she may be eligible. A one hundred and eighty day homeowner-occupant who is eligible for a payment is entitled to a reasonable opportunity to purchase a comparable replacement dwelling.

4) However, the State's obligation of providing comparable replacement housing will have been discharged when comparable replacement housing has been made available to the displaced person in compliance with the said Uniform Act.

5) If the displacee does not accept the comparable replacement housing provided by the State but obtains and occupies other decent, safe and sanitary housing, the replacement housing payment shall be the amount necessary to provide comparable replacement housing or the amount actually incurred by the displacee for decent, safe and sanitary housing, whichever is the lesser. (54 FR 8943, effective March 2, 1989)

b) Any person displaced because of the acquisition of real property for a last resort housing project under the State's power of eminent domain (including amicable agreements under the threat of such power) is entitled to all benefits for which he/she is eligible under this Part, except:

1) The provision described in subsection (b) is not applicable to an owner-occupant who voluntarily acts to sell his property to the State for last resort housing; and

2) The owner-occupant so certifies in a statement maintained in the State's files. (54 FR 8943, effective March 2, 1989)

c) The selection of prime contractors and subcontractors shall be made by the State on a nondiscriminatory basis and in accordance with the requirements in Title VI of the Federal Civil Rights Act of 1964 and Executive Orders 11246 (September 24, 1965) and 11625 (October 13, 1971). (54 FR 8943, effective March 2, 1989)

Section 518.3010 Applicability For Utilization of Last Resort Housing

a) Commitments should not be made to make payments in excess of *$22,500* or

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$5,250 (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988), or to otherwise provide housing of last resort, in advance of specific approvals and concurrence in study findings and conclusions by the Department. (54 FR 8943, effective March 2, 1989)

b) Such housing may be provided when comparable replacement housing is not available for the displaced person; or

1) Comparable replacement housing is available for the displaced person within his financial means but:

A) the computed replacement housing payment *exceeds* the *$22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) limitation described in Subpart H; or

B) the computed rent supplement *exceeds* the *$5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) limitation described in Subpart H.

2) Any decision to provide last resort housing assistance must be adequately justified;

A) Which means that appropriate consideration has been given to:

i) The availability of comparable housing in the project or program area; and

ii) The resources available to provide comparable housing; and

iii) The individual circumstances of the displaced person; or

B) By a determination that:

i) There is little, if any, comparable replacement housing available to displaced persons within an entire project or program area; and, therefore a case-by-case justification for last resort housing assistance is not necessary; and

ii) A project or program cannot be advanced to completion in a timely manner without last resort housing assistance; and

iii) The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total project or program costs, i.e., will project delay justify waiting for less expensive replacement housing to become available. (54 FR 8943, effective March 2, 1989)

c) The one hundred and eighty day owner-occupant is eligible for increased interest costs, closing costs, and a replacement housing payment. When the sum of these items is estimated to *exceed* the *$22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) maximum, last resort housing provisions are applicable. (54 FR 8943, effective March 2, 1989)

d) A ninety day owner or tenant as prescribed in Subpart H is eligible for a rent supplement. When this payment is expected to *exceed* the *$5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) maximum, last resort housing provisions found in Section 518.3005 are applicable. (54 FR 8943, effective March 2, 1989)

e) When comparable replacement housing is not available and cannot otherwise be made available, the Department will have broad latitude in implementing this requirement but implementation must be on a reasonable cost basis justified on a case by case basis unless an exception to case by case analysis is justified for an entire project. The methods of providing last resort housing include, but are not limited to, the following:

1) A replacement housing payment in excess of the limits of *$22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) to an eligible owner-occupant and *$5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) to an eligible tenant-occupant. A rental assistance payment may be provided in installments or in a lump sum at the State's discretion;

2) The purchase of land or replacement dwellings and subsequent sale or lease to, or exchange with, a displaced person. When such acquisitions

are made under the State's power of eminent domain or the threat of eminent domain, on Federally aided projects, State and FHWA procedures implementing provisions of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will apply. Such procedures are not required if property purchased has been offered for sale on the open market or the owner voluntarily acts to sell his property to the State and the owner so certifies in a statement maintained in the Department's file.

3) The rehabilitation of or additions to existing replacement dwellings, including such as required to meet decent, safe and sanitary requirements provided the cost of acquisition and rehabilitation does not exceed the estimated cost of construction of a new comparable dwelling meeting the decent, safe and sanitary requirements of the displacees that can be constructed on a timely basis.

4) The relocation and, if necessary, the refurbishing or rehabilitation of dwellings purchased by the State for right-of-way purposes.

5) The construction of new replacement dwellings.

6) The transfer from the Federal General Services Administration to the State of any real property surplus to the needs of the United States. If so, such transfer shall be subject to such terms and conditions as the said General Services Administration determines necessary to protect the interest of the United States and may be made without monetary consideration, except that the State shall pay to the United States all amounts received by the State from any sale, lease, or other disposition of such property used for replacement housing purposes.

7) The provisions of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest free.

8) The removal of barriers to the handicapped; and

9) The change in status of the displaced person from tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment. (54 FR

8943, effective March 2, 1989)

f) Under special circumstances, modified methods of providing housing of last resort permit consideration of:

1) Replacement housing based on space and physical characteristics different from those in the displacement dwelling. The physical characteristics of the replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.
AGENCY NOTE: Such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person.

A) One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

B) Another example could be the use of a superior, but smaller decent, safe and sanitary dwelling to replace a large, old sub-standard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

2) Upgraded, but smaller replacement housing that is decent, safe and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence.

3) The financial means of a displaced person who is not eligible to receive a replacement housing payment because of failure to meet length-of-occupancy requirements when comparable replacement rental housing is not available at rental rates within thirty percent of the person's gross monthly household income. (54 FR 8943, effective March 2, 1989)

g) It is the responsibility of the Department under this subsection to provide a replacement dwelling which places the displacee in the same ownership or tenancy status as he had prior to displacement. At the request of the displacee, the Department may provide a dwelling which changes the ownership or tenancy status of the displacee if such a dwelling is available and can be provided more

economically.

1) The Department is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the Department would be required to provide such persons if they, individually, owned the fee simple title to the displacement dwelling.

2) If such assistance is not sufficient to buy a replacement dwelling, the Department may provide either additional purchase assistance or rental assistance. (54 FR 8943, effective March 2, 1989)

h) *The Department may enter into* cooperative *agreements* (Section 4-511 of the Code) with any other Federal, State or local agency or contract with any individual, firm, association or corporation for services in connection with these activities. It is expected that the Department will, to the greatest extent practicable, utilize the services of Federal, State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities. (54 FR 8943, effective March 2, 1989)

SUBPART N: MOBILE HOMES

Section 518.4000 Scope – Mobile Homes

a) This subsection describes the special additional requirements governing the provision of relocation payments to a person displaced from a mobile home or mobile home site who meets the basic eligibility requirements for displaced owner-occupants and tenant-occupants as described under Subpart H: MOVING PAYMENTS. Except as modified by this subsection and the subsections that follow such a displaced person is entitled to a moving expense payment in accordance with Sections 518.710 and 518.715 and a replacement housing payment in accordance with Subpart H to the same extent and subject to the same requirements as persons displaced from conventional dwellings. (54 FR 8943 and 8944, effective March 2, 1989)

b) Both the mobile home and mobile home site must be considered when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may

elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under provisions of Sections 518.2005 and 518.2010. However, the total replacement housing payment shall not *exceed* the maximum payment (either *$22,500* or *$5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988)), permitted under Sections 518.2005 and 518.2010 that governs the computation for the dwelling. (54 FR 8943 and 8944, effective March 2, 1989)

c) Cost of Comparable Replacement Dwelling:

1) If a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

2) If the Department determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the Department may determine that, for purpose of computing the price differential, that the cost of a comparable replacement dwelling is the sum of the value of the mobile home; the cost of any necessary repairs or modifications; and the estimated cost of moving the mobile home to a replacement site. (54 FR 8943 and 8944, effective March 2, 1989)

d) If the mobile home is not actually acquired, but the occupant is considered displaced, the "initiation of negotiations" is the initiation of negotiations to acquire the land, or, if the land is not acquired, the written notification that he or she is a displaced person. (54 FR 8943 and 8944, effective March 2, 1989)

e) If the owner-occupant is reimbursed for the cost of moving the mobile home, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The owner-occupant may, however, be eligible for assistance in purchasing or renting a replacement site. (54 FR 8943 and 8944, effective March 2, 1989)

Section 518.4005 Applicability – Moving the Mobile Home

a) A homeowner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving his or her mobile home on an actual

cost basis in accordance with Section 518.720 and the special provisions described in subsection (b). (54 FR 8943 and 8944, effective March 2, 1989)

b) A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under Section 518.740. However, if a mobile home is not acquired, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described in this Part the said owner is not eligible for payment for moving the mobile home.

1) If a displaced mobile homeowner files a claim for actual moving expenses for the cost of moving the mobile home to a replacement site, the reasonable costs of disassembling, moving, and reassembling any attached appurtenances such as porches, decks, skirting, and awnings which were not acquired, anchoring of the unit, and utility "hook-up" charges, are also reimbursable.

2) If a mobile home requires repairs or modifications so that it can be moved to a replacement site, and made decent, safe, and sanitary, and the Department determines that it would be economically feasible to incur the additional expenses thereof, the reasonable costs of such repairs or modifications are reimbursable.

3) The cost of moving a mobile home may include the cost of detaching and reattaching fixtures and appliances when applicable. (54 FR 8943 and 8944, effective March 2, 1989)

Section 518.4010 Other Directives

All of the eligibility provisions described in Subparts (J), (K), and (L) are applicable to persons displaced from mobile homes and or mobile home sites. (54 FR 8943, effective March 2, 1989)

Section 518.4015 Acceptability of the Mobile Home

If otherwise eligible under this Subpart, the owner of a mobile home is entitled to a replacement housing payment if his mobile home does not meet comparable mobile homes park entrance requirements. The amount of such payment will be computed as the difference between acquisition cost (or the trade in value of the mobile home that is personalty and is not acquired) and the price of a mobile home acceptable to the mobile home park or, if less, the cost to rehabilitate the existing mobile home, if practicable, to meet the entrance requirements. (54 FR

8944, effective March 2, 1989)

Section 518.4020 Mobile Home Park Entrance Fees

A nonreturnable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park, or the Department determines that payment of the fee is necessary to effect relocation. (54 FR 8944, effective March 2, 1989)

Section 518.4025 Partial Acquisition of Mobile Home Park

The acquisition of a portion of a mobile home park may leave a remaining part of said park that is not adequate to continue the operation of the park. If the Department determines that a mobile home which is located in the remaining part of the park must be moved as a direct result of the project, the owner/occupant or tenant/occupant of such mobile home shall be considered a displaced person who is entitled to all relocation payments and other provisory assistance. (54 FR 8944, effective March 2, 1989)

Section 518.4030 Mobile Home as Replacement Dwelling

A mobile home may be considered a replacement dwelling provided it otherwise substantially meets all applicable requirements for decent, safe and sanitary dwellings as defined in Section 518.20. (54 FR 8944, effective March 2, 1989)

Section 518.4035 General Rules For Replacement Housing or Rent Supplement Payment Computations

a) The ownership or tenancy of the mobile home (not the land on which it is located) determines the occupant's status as a owner or a tenant. The length of ownership and occupancy of the mobile home on the mobile home site will determine the occupant's status as a one hundred and eighty day or ninety day, respectively, owner or tenant. (54 FR 8944, effective March 2, 1989)

b) The mobile home must be occupied on the same site (or in the same mobile home park) for the requisite ninety or one hundred and eighty days to make the occupant eligible for the appropriate payment limitations, i.e., *$5,250* or *$22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988). (54 FR 8944, effective March 2, 1989)

c) After these determinations are made, the replacement housing payment is computed in two parts:

1) The replacement housing or rent supplement payment is computed for the mobile home in accordance with the same procedures as for any other comparable dwelling unit.

2) The replacement housing or rent supplement payment for the mobile home site will be computed in accordance with the same "comparability" procedures normally used to compute replacement housing payments. However, any payment due will be subject to the stated maximums available to either an owner or a tenant, as the case may be. Payment is limited to the stated maximums according to his/her ownership or tenancy of the land. (54 FR 8944, effective March 2, 1989)

d) In any case, the sum of the two parts computed as above cannot *exceed* the stated maximum limitations of *$5,250* or *$22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988), respectively. (54 FR 8944, effective March 2, 1989)

e) If the displaced person desires to utilize his/her option for change of ownership or tenancy, the same procedures utilized for other dwelling units, as described in Subpart L, will be utilized and substituted as appropriate. (54 FR 8944, effective March 2, 1989)

Section 518.4040 No Available Comparable Replacement Site

If the mobile home cannot be moved because there is no available comparable replacement site, the displacee is eligible for a price differential payment as described in Section 518.4060. (54 FR 8944, effective March 2, 1989)

Section 518.4045 Moving Expenses

Occupants of mobile homes are eligible to receive moving expense payments as provided for in Subpart H and are also subject to the eligibility requirements set forth in this Part. However, in order to qualify for and to receive such moving payments, the displaced person must move the contents of the mobile home and other personal property separate and apart from the mobile home itself. Reimbursement for the costs of moving the mobile home itself can only be made on an actual cost basis as provided for at Section 518.4005. (54 FR 8943, effective March 2, 1989)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 518.4050 Replacement Housing Payment For One Hundred and Eighty Day Mobile Homeowner-Occupants

a) A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, *not* to *exceed $22,500* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988), as provided under Subpart H if:

1) The person both owned the displacement mobile home and occupied it on the displacement site for at least *one hundred and eighty days* immediately *prior to the initiation of negotiations.* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988)

2) The person meets the other basic eligibility requirements at Subpart H; and

3) The Department acquires the mobile home or mobile home site, or the mobile home is not acquired by the Department but the owner is displaced from the mobile home because the Department determines that the mobile home:

A) Is not and cannot economically be made decent, safe, and sanitary; or

B) Cannot be relocated without substantial damage or unreasonable cost; or

C) Cannot be relocated because there is no available comparable replacement site; or

D) Cannot be relocated because it does not meet mobile home park entrance requirements. (54 FR 8944, effective March 2, 1989)

b) If the mobile home is not acquired and the Department determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling to be used when computing the price differential amount, as described in Sections 518.4055 and 518.4060, will be the salvage value or the trade-in value of the mobile home, whichever is higher. (54 FR 8944, effective March 2, 1989)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 518.4055 Acquisition of Mobile Home and Site

a) The replacement housing payment will be the amount, if any, which when added to the amount for which the Department acquired the mobile home and site equals the lesser of:

1) The amount the owner is required to pay for a decent, safe and sanitary replacement mobile home and site; or

2) The amount determined by the Department as necessary to purchase a comparable mobile home and site in accordance with Subpart H. (54 FR 8944, effective March 2, 1989)

b) If the owner elects to rent, the rent supplement payment shall be determined by subtracting forty two times the economic rent of the mobile home and site as determined by the Department from the lesser of:

1) The amount determined by the Department necessary to rent a comparable mobile home and site for a period of *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); or

2) Forty two times the monthly rent actually paid for a replacement dwelling. (54 FR 8944, effective March 2, 1989)

Section 518.4060 Acquisition of Site Only

Upon acquisition of the site, but not the home situated upon the site, and the mobile home is required to be moved, the replacement housing payment will be determined as follows:

a) The replacement housing payment will be the amount, if any, which when added to the amount for which the Department acquired his mobile home site equals the lesser of:

1) The amount the owner is required to pay for a comparable site; or

2) The amount determined by the Department as necessary to purchase a comparable mobile home site. (54 FR 8944, effective March 2, 1989)

b) If the owner elects to rent, the rent supplement payment shall be determined by subtracting forty two times the economic rent of the mobile home site as determined by the Department from the lesser of:

1) The amount determined by the Department as necessary to rent a comparable mobile home site for *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); or

2) Forty two times the monthly rent actually paid for a replacement mobile home site. (54 FR 8944, effective March 2, 1989)

c) When the mobile home which must be moved from the site is classified as personalty and is not acquired by the State, the displaced owner/occupant is entitled to a replacement housing payment if:

1) The structural condition of the mobile home is such that it cannot be moved without substantial damage or unreasonable costs. The payment to be determined by the Department will be computed using the "trade-in value" or the "salvage value," whichever is higher, instead of "acquisition cost" to determine the maximum replacement housing payment due; or

2) The mobile home is not decent, safe and sanitary. The payment determination by the Department will be computed using the "trade-in value," or the "salvage value," whichever is higher, instead of "acquisition cost" to determine the maximum replacement housing payment due. (54 FR 8944, effective March 2, 1989)

Section 518.4065 Acquisition of Mobile Home Only – Owner-Occupant Rents Site

a) The replacement housing payment will be the amount, if any, which when added to the amount for which the Department acquired the mobile home equals the lesser of:

1) The actual amount the owner is required to pay for a replacement dwelling; or

2) The amount determined by the Department as necessary to purchase a comparable mobile home, plus the difference between: the amount determined by the Department as necessary to rent a comparable mobile

home site for *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); and forty two times the rent being paid on the site acquired. (54 FR 8944, effective March 2, 1989)

b) The owner may choose to purchase a comparable mobile home site as an alternative to renting a site. If so, the down payment for the site will be computed in accordance with Section 518.2010. (54 FR 8944, effective March 2, 1989)

c) If the owner elects to rent a replacement mobile home, the rent supplement payment shall be determined by subtracting forty two times the economic rent of the mobile home as determined by the Department and the actual rent of site from the lesser of:

1) The amount determined by the Department necessary to rent a comparable mobile home and site for *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); or

2) Forty two times the monthly rent actually paid for a replacement dwelling. (54 FR 8944, effective March 2, 1989)
AGENCY NOTE: Computed in accordance with Section 518.2005.

Section 518.4070 Acquisition of Rented Site Only – Mobile Home Not Acquired

a) Upon acquisition of the site, but not the home situated upon that site and the mobile home is required to be moved, the owner-occupant of the mobile home is eligible for up to *$5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988):

1) To be used as a downpayment on the replacement site. The eligible amount of such downpayment will be determined by the Department in accordance with Section 518.2010.

2) As a rent supplement for a comparable replacement site. This rent supplement payment will be computed in accordance with Section 518.2005 and will be the difference determined by subtracting forty two times the rent on the site being acquired from the lesser of:

A) The amount determined by the Department as necessary to rent a

comparable home site for *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); or

B) Forty two times the monthly rent actually paid for a replacement site. (54 FR 8944, effective March 2, 1989)

b) See Section 518.4060 for circumstances under which a replacement housing payment for the mobile home may be qualified. (54 FR 8944, effective March 2, 1989)

Section 518.4075 Replacement Housing Payment For Ninety Day Owner-Occupants

A displaced owner-occupant of a mobile home who has occupied the mobile home on the site from which he is being displaced for less than one hundred and eighty days but more than ninety days and who is otherwise eligible under the provisions of Subpart H is eligible for an amount *not to exceed $5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988) to be computed in accordance with Section 518.2010 to be used as a downpayment on the purchase of replacement housing and as a reimbursement for eligible incidental expenses computed in accordance with Section 518.2010. If he elects to rent, a rent supplement payment shall be determined as computed in Section 518.2005. Such payments are to be disbursed in accordance with Subpart K. (54 FR 8944, effective March 2, 1989)

Section 518.4080 Acquisition of Mobile Home and Site

a) If the owner-occupant purchases a replacement dwelling, the replacement housing payment will be determined in accordance with Section 518.2010. (54 FR 8944, effective March 2, 1989)

b) If the owner-occupant elects to rent, the rent supplement shall be determined by subtracting forty two times the economic rent of the acquired mobile home and site as determined by the Department from the lesser of:

1) The amount determined by the Department necessary to rent a comparable mobile home and site for *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); or

2) Forty two times the monthly rent actually paid for a replacement dwelling. (54 FR 8944, effective March 2, 1989)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 518.4085 Acquisition of Site Only From Owner-Occupant of Mobile Home

a) If the owner-occupant purchases a replacement dwelling, or a replacement site, the replacement housing payment will be determined in accordance with the requirements for conventional replacement housing or for the site to which the mobile home is moved, and the replacement housing payment will be an amount determined in accordance with Section 518.2010. (54 FR 8944, effective March 2, 1989)

b) If the owner elects to rent, the rent supplement payment shall be determined by subtracting forty two times the economic rent of the acquired site as determined by the Department from the lesser of:

1) The amount determined by the Department as necessary to rent a comparable site for *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); or

2) Forty two times the monthly rent actually paid for a replacement site. (54 FR 8944, effective March 2, 1989)

c) See Section 518.4060 for circumstances under which a replacement housing payment for the mobile home may be qualified. (54 FR 8944, effective March 2, 1989)

Section 518.4090 Acquisition of Mobile Home Only – Owner-Occupant Rents Site

a) If the owner purchases replacement housing, the replacement housing payment will be:

1) An amount determined in accordance with Section 518.2010;

2) Plus an amount determined by subtracting forty two times the rent being paid on the site acquired from the lesser of:

A) The amount determined by the Department as necessary to rent a comparable mobile home site for a period of *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); or

B) The amount of rent the owner actually pays for the replacement site. (54 FR 8944, effective March 2, 1989)

b) The owner may choose to purchase a comparable mobile home site as an alternative to renting a site. If so, the downpayment for the site shall be made in accordance with Section 518.2010. (54 FR 8944, effective March 2, 1989)

c) If the owner elects to rent, the payment will be determined by subtracting forty two times the economic rent as determined by the Department of the mobile home and actual rent of the site from the lesser of:

1) The amount determined by the Department as necessary to rent a comparable mobile home and site for *forty two months* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988); or

2) Forty two times the monthly rent actually paid for a replacement dwelling. (54 FR 8944, effective March 2, 1989)

Section 518.4095 Rent Supplement Payment To Tenants – Occupants of Mobile Homes For Ninety Days or More

A displaced tenant-occupant of a mobile home who has occupied the mobile home on the site from which displaced for at least ninety days and who is otherwise eligible under the applicable provisions of Subpart K is eligible for a replacement housing or rent supplement payment, *not to exceed $5,250* (Section 3-107.1c of the Code, as amended by P.A. 85-1407, effective September 22, 1988), to be computed under Sections 518.2005 or 518.2010. (54 FR 8944, effective March 2, 1989)

Section 518.4100 Claim Forms

The claim forms to be used for mobile home displacements are the same as for other classes of displacees except for moving expenses. For moving expenses use Form BRW 780, "Claim For Moving Expenses – Mobile Home". (54 Fr 8944, effective March 2, 1989)

SUBPART O: INCIDENTAL EXPENSES

Section 518.5000 Eligible Incidental Expenses on Transfer of Real Property to the State

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

a) *In addition* to any other *amounts authorized* under this program, owners of real property are entitled to receive payments for the owner's *reasonable and necessary expenses incurred in* transferring property to the State under provisions of the Uniform Act. For administrative purposes only, these expenses are processed as relocation claims for payment, however, such costs, for accounting purposes, are coded as acquisition expenses. Such expenses may include the following: (Section 3-107.1d of the Code, as amended by P.A. 85-1407, effective September 22, 1988)

1) *Recording fees, transfer taxes,* documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, *and similar expenses incidental to conveying* the *real property to* the State, if such expenses are actually incurred, and if required in the judgement of the Department. However, the State is not required to pay costs required solely to perfect the owner's title to the real property; and (Section 3-107.1d of the Code, as amended by P.A. 85-1407, effective September 22, 1988)

2) The costs of obtaining partial or complete mortgage releases; *and penalty costs* and other charges *for prepayment of any pre-existing recorded mortgages entered into good faith encumbering such real property.* (Section 3-107.1d of the Code, as amended by P.A. 85-1407, effective September 22, 1988) (54 FR 8941, effective March 2, 1989)

b) Upon receipt of a claim for an incidental transfer expense payment, prompt notice of the receipt and disposition of the claim will be mailed directly to the claimant. Form BRW 950, "Notice of Receipt of a Claim for a Relocation Payment", properly completed, will be used for this purpose. (54 FR 8941, effective March 2, 1989)

c) Form BRW 967, "Claim for Payment - Incidental Expenses" should be submitted to claim reimbursement for incidental expenses. (54 FR 8941, effective March 2, 1989)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 518.EXHIBIT A Residential Moving Expense and Dislocation Allowance

PAYMENT SCHEDULE FOR ILLINOIS

OCCUPANT OWNS FURNITURE (1) & (2)									OCCUPANT DOES NOT OWN FURNITURE (3)	
NUMBER OF ROOMS OF FURNITURE								EACH ADD. ROOM	FIRST ROOM	EACH ADD. ROOM
1	2	3	4	5	6	7	8			
250	400	550	650	750	850	950	1050	100	225	35

(1) Person whose residential move is performed by agency, $50.

(2) Move of a mobile home from site, actual cost; reasonable amount may be added for packing and securing personal property for the move at agency discretion.

(3) Occupant of dormitory, $50. (54 FR 8952, effective March 2, 1989)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Oversize and Overweight Permit Movements on State Highways

2) Code Citation: 92 Ill. Adm. Code 554

3)

Section Numbers:	Proposed Action:
554.103	Amend
554.109	Repeal
554.112	Amend
554.201	Amend
554.301	Amend
554.306	Amend
554.315	Amend
554.407	Amend
554.501	Amend
554.604	Amend
554.605	Amend
554.607	Amend
554.705	Amend
554.804	Amend
554.907	Amend

4) Statutory Authority: Implementing and authorized by Article III of the Illinois Size and Weight Law [625 ILCS 5/Ch. 15, Art. III]

5) A Complete Description of the Subjects and Issues Involved: Following is a summary of the significant changes to this Part.

At Section 554.103, the Department added a second phone number to assist the applicant in contacting the Permit Office regarding questions on permit policies.

At Section 554.109, the Department is repealing this language because data on for-hire moves is no longer required to obtain a permit.

At Section 554.112, the Department is updating provisions to reflect current practice.

At Section 554.201, the Department is adding a subsection, in response to a request from the Illinois Trucking Association, to expand weekend hours of movement for over-dimension permit moves. Illinois is the only state in the Midwest, and one of only three nationwide, that currently prohibits all types of over-dimension permit movements on

Saturday afternoons and Sundays. This change will improve commerce, reduce the amount of over-dimension traffic on weekdays (especially Mondays), and reduce the lack of parking spaces on weekends, in particular at rest stops and rest areas.

At Section 554.301, the Department is encouraging the use of the internet when applying for a permit since the processing time is significantly faster.

At Section 554.306, the Department is adding an updated internet address and revising terms (throughout the rulemaking) to reflect commonly-understood industry terminology.

At Section 554.315(a)(6), the Department is correcting a conflict between this subsection and Section 554. 212 by adding language that reinforces the provisions of Section 554.212 pertaining to fraudulent permits.

At Section 554.407, the Department is making several changes to reduce the number of permit loads that will require Illinois State Police escorts.

At Section 554.604, the Department is updating the rule to reflect current practice.

At Section 554.705, the Department is making a change pursuant to 625 ILCS 5/15-111 to relax the requirement concerning the distance an overlength tow truck may travel when moving a disabled vehicle.

At Section 554.804, the Department is amending language to provide for permits for over width containers designed for transporting radioactive materials.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

Mr. Steven Todd, Permit Unit Chief
Illinois Department of Transportation
Bureau of Operations
2300 South Dirksen Parkway
Room 009
Springfield, Illinois 62764

217/785-8967

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway
Room 317
Springfield, Illinois 62764

217/524-3838

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking does not impact small businesses any differently than any other business seeking a permit.

B) Reporting, bookkeeping or other procedures required for compliance: No additional procedures are required.

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C) Types of professional skills necessary for compliance: No additional skills are required.

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 554
OVERSIZE AND OVERWEIGHT PERMIT MOVEMENTS ON STATE HIGHWAYS

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554.101 Legal Authority
554.102 Partial Invalidity
554.103 Scope
554.104 When a Permit is Required
554.105 To Whom Permits are Issued
554.106 A Permit is a Legal Document
554.107 Penalties
554.108 Insurance
554.109 For-Hire Moves (Repealed)
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554.112 IDT Registration

SUBPART B: TYPES OF PERMITS

Section
554.201 Permits for Single Trip Movements
554.202 Permits for Round Trips
554.203 Permits for Repeated Moves of Like Objects
554.204 Permits for Limited Continuous Operation
554.205 Permits for Repeated Moves Directly Across a Highway
554.206 Permits for the Movement of Overweight 2-Axle Truck Loaded With Sweet Corn, Soybeans, Corn, Wheat, Milo, or Other Small Grains and Ensilage
554.207 Permits for the Movement of Construction Equipment within a Construction Zone
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554.209 Scope: Duty of Permittee to Read Permit Upon Receipt
554.210 Extension of Permits
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554.301 Transmission Media
554.302 Original Transmission Only is Valid as Permit (Repealed)
554.303 When Permits Are Issued
554.304 Permit Office (Repealed)
554.305 District Offices
554.306 Method of Application
554.307 Forms to Assist in the Preparation of a Permit Application
554.308 Responsibilities of the Department in Analysis of Applications
554.309 Preliminary Application for Estimating Purposes for Proposed Moves
554.310 Procedure Following Arrest for Violation
554.311 Subsequent Permits Following a Violation
554.312 Permits for Moves Over Toll Highways
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554.314 Moves Upon Structures Located on a Local Street or Highway Spanning an Interstate or Controlled Access Highway
554.315 Definition of Violation of Permit

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Section
554.401 Conditions and Restrictions
554.402 Short Form Permits
554.403 Form OPER 993
554.404 When Flagmen are Required (Repealed)
554.405 Qualifications for Flagmen (Repealed)
554.406 Duty of Flagmen (Repealed)
554.407 When Escort Vehicles Are Required
554.408 Requirements for Civilian Escorts
554.409 Manufactured Homes
554.410 Overdimension
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554.412 Axle Suspension for Legal Weight Moves
554.413 Axle Suspension for Overweight Moves
554.414 Buildings
554.415 Farm Tractors Prohibited as Towing Vehicle

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554.416 Double-Bottom Units
554.417 Flags
554.418 Rotating or Flashing Amber Lights
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554.420 General Speed Limits for Permit Movements
554.421 Moves in Convoys Prohibited
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554.423 Moves Over Posted Load Roads and Bridges
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554.428 Right-of-Way During Movement
554.429 Legal Height Movements
554.430 Assigned Permitted Route

SUBPART E: OVERSIZE VEHICLES AND LOADS

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554.501 Scope
554.502 Legal Dimensions
554.503 Exceptions to Legal Limitations
554.504 Overwidth up to 14 Feet 6 Inches Wide
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554.506 Horizontal Clearances
554.507 Overlength
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554.509 Maximum Size Manufactured Home, Modular Home, or Oversize Storage Building
554.510 Manufactured Home Frames
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554.512 Size of Building that may be Moved
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554.514 When Work is Required on Highway
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554.516 Routes upon Which Buildings may be Moved
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554.606 Maximum Weight on Chicago Expressways
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554.608 Status of Permittee While Enroute to the Scale
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554.802 Manufactured Home Emergency Moves
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554.901 Remittance
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554.903 Bonded Charge Accounts
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554.906 Basis for Fees
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554.908 Service Charge for Special Handling
554.909 Fees for Buildings and Special Moves
554.910 Fee for Engineering Inspections and Investigations
554.911 Fees for Illinois State Police Escorts
554.912 Special Categories of Fees (Repealed)
554.913 Other Overweight Fees (Repealed)
554.914 Fees for Round Trip and Repeat Move of Like Object Permits (Repealed)
554.915 Fee Schedules (Tables 1, 2, and 3) (Repealed)

554.APPENDIX A Data Relative to Vehicles Authorized to Operate on Illinois Highways (Repealed)
554.APPENDIX B Legal Gross Weights of Vehicles and Combinations of Vehicles Authorized by Section 15-111, Illinois Vehicle Code (Repealed)
554.APPENDIX C Application Form BT 1928 (Repealed)
554.APPENDIX D Special Vehicle Movement Permit – Form BT 993 (Repealed)
554.APPENDIX E Form BT 750 (Repealed)
554.APPENDIX F Form BT 751 (Repealed)
554.APPENDIX G Application for Establishment of an Open Account with the Permit Section, Bureau of Traffic (Form BT 1932) (Repealed)
554.APPENDIX H Bond for Payment of Special Permit Fees and Charges to Illinois Department of Transportation for Movement of Vehicles of Excess Dimensions or Weight Over Illinois Highways (Form BT 1931) (Repealed)

AUTHORITY: Implementing and authorized by Article III of the Illinois Size and Weight Law [625 ILCS 5/Ch. 15, Art. III].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 2, p. 256, effective January 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 24, p. 586, effective May 29, 1980; codified at 7 Ill.

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Reg. 9672; amended at 11 Ill. Reg. 3248, effective February 3, 1987; amended at 12 Ill. Reg. 13232, effective July 29, 1988; amended at 20 Ill. Reg. 2565, effective January 25, 1996; amended at 21 Ill. Reg. 2682, effective February 10, 1997; amended at 23 Ill. Reg. 706, effective December 30, 1998; amended at 24 Ill. Reg. 18765, effective December 8, 2000; amended at 28 Ill. Reg. 15654, effective November 19, 2004; amended at 32 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL REGULATIONS

Section 554.103 Scope

a) All applications for permits are given full consideration. Permits for proposed moves may be issued

1) when the highways and bridges will not be unduly damaged; and

2) when the safety of the traveling public will be adequately protected.

b) A permit may also be issued when substantial benefits will be realized by a large segment of the public and potential damage and safety problems can be resolved.

c) This Part is the official detailed policy written to provide a uniform system for issuing oversize and overweight permits. This Part is authorized by the Illinois Vehicle Code and, in addition to the statutes, governs the issuance of special permits. All of the terms, conditions, and informational requirements contained in this Part constitute the Department's official policies for this permit program.

d) Questions regarding permits or permit policies should be directed to the Illinois Department of Transportation, Bureau of Operations, Permit Office, 2300 South Dirksen Parkway, Springfield, Illinois 62764 (217-782-6271 or 217-558-1428) or by email at: permitoffice@dot.il.gov.

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

Section 554.109 For-Hire Moves (Repealed)

~~Information concerning for-hire moves under the Illinois Commercial Transportation Law [625 ILCS 5/Ch. 18c] may be obtained from the Motor Carrier Division of the Illinois Commerce Commission, Springfield, Illinois 62706.~~

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

Section 554.112 IDT Registration

a) Applicants for special permits may apply for IDT registration and for a decal (label) that will identify a specific vehicle and its classification (forms are available from the Permit Office). Maximum dimensions on permit moves using a Class A tractor, a Class A semitrailer, or a Class B semitrailer are 14 feet 6 inches wide, 145 feet long and 15 feet high.~~Forms are available from the Permit Office.~~

b) IDT classifications are as follows:

1) Class A Truck Tractor (when moving with a permit).
A 3-axle vehicle with a 2-axle drive tandem capable of drawing a gross weight of up to 120,000 pounds; maximum of 20,000 pounds on steering axle and 48,000 pounds on tandem.

2) Class A Semitrailer (when moving with a permit).
A 3-axle tandem semitrailer that, together with a truck tractor, will support and move a gross weight of 120,000 pounds; maximum of 60,000 pounds on tandem.

3) Class B Semitrailer (when moving with a permit).
A 2-axle tandem semitrailer that, together with a truck tractor, will support and move a gross weight of 100,000 pounds; maximum of 48,000 pounds on tandem.

4) Class M Mobile Crane or Well Drilling Vehicles (when moving with a permit).
A 4-axle vehicle; 76,000 pounds gross weight; maximums of 34,000 pounds on one tandem and 44,000 pounds on the other; wheelbase 23 feet or more; not more than 12 feet wide; not over 60 feet long; not more than 15 feet high.

5) Class N Mobile Crane or Well Drilling Vehicles (when moving with a permit).
3-axle vehicle; 68,000 pounds gross weight; 20,000 pounds on steering axle and 48,000 pounds on tandem; wheelbase 18 feet or more; no more

than 12 feet wide; not over 60 feet long; not more than 15 feet high.

c) Conditions under which classification and registration may be obtained and used:

1) IDT decals are valid for up to two years and cost $5.00 each. Checks should be made payable to "Treasurer, State of Illinois."

2) To be valid, the proper decal must be affixed to the left side of the vehicle in a conspicuous place.

3) When vehicles are classified and decals issued, vehicles may be identified both in applications for permits and in permits by classification only, provided the proposed move does not exceed the classification limits of the vehicle or of any vehicle within the combination.

4) Vehicles identified only by classification may be used in combinations other than truck tractor semitrailers, providing axle spacings are furnished.

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

SUBPART B: TYPES OF PERMITS

Section 554.201 Permits for Single Trip Movements

a) Permits for single trip movements are issued for one-way movement. These permits are valid for 5 working days.

b) Unless stated otherwise on the permit:

1) permit movements may be made only from one~~a~~ half hour before sunrise to one~~a~~ half hour after sunset on weekdays and from one~~a~~ half hour before sunrise to noon on Saturday unless subsection (b)(5) or (b)(6) of this Section applies;

2) permit movements are prohibited on Sunday unless subsection (b)(5) or (b)(6) of this Section applies;~~and on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day~~

3) permit movements are prohibited on New Year's Day, Memorial Day,

Independence Day, Labor Day, Thanksgiving Day and Christmas Day;

4~~3~~) permit movements will not be allowed later than noon on the day preceding a holiday or a holiday weekend; ~~and~~

5~~4~~) categorical permit moves (see~~See~~ Sections 554.504, 554.507, 554.508 and 554.604 for limitations pertaining to categorical moves) that are overweight only shall be allowed to move with no time restrictions; and~~.~~

6) permit movements up to 12 feet wide, and/or up to 13 feet 6 inches high, and/or up to 115 feet in length that do not exceed practical maximum weights (see Section 554.604) may be made Monday through Saturday from one half hour before sunrise to one half hour after sunset and on Sunday from one half hour before sunrise to noon, excluding specific holidays and holiday weekends.

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

SUBPART C: ISSUANCE OF PERMITS

Section 554.301 Transmission Media

a) For expedited service, the Department recommends the use of the Internet; however, permits~~Permits~~ may be applied for and issued by any of the following means:

1)~~a)~~ By Internet or telephone~~ or Internet~~ – routine permits~~ not exceeding practical maximums~~ as shown in Sections 554.504, 554.507, 554.508, and 554.604, Single Trip Movement permits, Round Trip Movement permits, Repeated Moves of Like Objects permits, Limited Continuous Operations permits;

2)~~b)~~ By Internet or fax – superload permits~~ that exceed practical maximums~~;

3)~~c)~~ By mail or in person – all permits.

b) Routine loads~~Loads that do not exceed practical maximums~~ may ~~also~~ be applied for via Internet 24 hours a day, 7 days a week. All costs of transmission are borne by the applicant.

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

Section 554.306 Method of Application

Applications may be submitted in person or by mail at: Illinois Department of Transportation, Permit Office, Room 017, 2300 South Dirksen Parkway, Springfield, Illinois 62764, or on the Internet at http://permits.dot.state.il.us/submit.html~~http://permits.dot.il.gov~~. Permit applications may also be made by telephoning 217-785-1477 or 1-800-252-8636 within Illinois. Permit applications may be faxed to 217-782-3572. In compliance with Illinois Statutes, the Department has installed an automatic device for recording applications received and permits issued by telephone. In making application by telephone, the Department and the applicant waive all objections to the recording of the conversation. The following conditions apply to applications for various types of permits.

a) Permits for single trip and round trip.

1) Permits may be applied for on the Internet, by telephone or in writing by submitting Form OPER 1928 for routine permits~~ within the practical maximum size and weight limits~~ as shown in Sections 554.504, 554.507, 554.508, and 554.604.

2) Applications for superload permits shall~~exceeding the practical maximum size and weight limits must~~ be submitted by Internet, by fax, by mail, or by walk-in and shall be submitted on Form OPER 2270.

b) Permits for repeated moves of like objects (minimum of five applications).

1) Applications must all be submitted at one time to the Permit Office.

2) The applicant may telephone the Permit Office to activate permits that were applied for without an effective date.

c) Permits for limited continuous operation may be applied for on the Internet, by fax, or in writing.

d) Permits for the repeated moves directly across a highway or for the movement of an overweight 2-axle truck loaded with sweet corn, soybeans, corn, wheat, milo or other small grains and ensilage may be applied for by fax at 217-782-3573 or in

writing on current Department Form BT 1163 or BT 757, respectively.

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

Section 554.315 Definition of Violation of Permit

a) When operating under authority of an oversize/overweight permit issued by the Illinois Department of Transportation, the following list includes but is not limited to offenses that shall be considered a violation of permit but will not render the entire permit null and void:

1) Incorrect license number or state;

2) Incorrect make, model, description or serial number;

3) Incorrect number of axles;

4) Gross, tandem or single axle weights that are in excess of those permitted. In this case, the violator may be fined for the excess weight in addition to the violation of permit;

5) Incorrect width, length, and/or height of the permit load;

6) Failure to comply with the general and~~conditions,~~ specific provisions~~,~~ and notes listed on the permit. EXCEPTION: Failure to comply with the general and specific provisions and notes pertaining to minimum axle spacing, as described on the permit application and accompanying permit, will be considered a load operating without a permit, and the permit will be deemed fraudulent in accordance with Section 554.212(d).

b) This list is not comprehensive, but reflects the most prevalent instances of violation of permit. Under a violation of permit, the permittee must either bring the permit load into conformance with the conditions of the permit or purchase a new permit before continuing.

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

SUBPART D: GENERAL CONDITIONS AND PROVISIONS

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section 554.407 When Escort Vehicles Are Required

a) One civilian escort vehicle is required:

1) For all moves that exceed 14 feet 6 inches in width;

2) For all moves that exceed 110 feet in length;

3) For all moves that exceed 14 feet 6 inches in height;

4) For any move either across, upon, or along a highway when additional warning is required to alert the traveling public. For instance, if a movement is required to travel during darkness or on a weekend to respond to an emergency situation, a civilian escort will be required.

b) Two civilian escort vehicles are required:

1) For all moves that exceed 18~~16~~ feet in height;

2) For all moves that exceed both 14 feet 6 inches in width and 14 feet 6 inches in height;

3) For all moves that exceed both 14 feet 6 inches in height and 110 feet in length;

4) For all moves that exceed both 14 feet 6 inches in width and 110 feet in length.

c) Three civilian escorts are required:

1) For all moves that exceed 16 feet in width;

2) For all moves that exceed 145 feet in length;

3) For all towed special haul rigs more than 150 feet in length.

d) Illinois State Police Escorts

1) Illinois State Police escorts are required:

A) For moves greater than 18 feet wide;

B) For moves of greater than 200~~175~~ feet in length;

C) For moves over 18 feet high;

D) For overweight moves where bridge restrictions require that all traffic be kept off of a structure while the permitted vehicle crosses;

E) For overweight moves of 230,000 pounds or more; or

F) For any move of an unusual nature where additional traffic control is necessary to alert the motoring public to the permit movement.

2) Moves requiring Illinois State Police escorts will normally be made partially or entirely outside a municipality. The permittee must make all arrangements with the designated State Police Headquarters at least 24 hours prior to the move. The Permit Office may determine a State Police escort is not necessary in some instances including but not limited to the following:

A) on moves made within a municipality if local police are utilized as specified in Section 554.407(d);

B) on movements where the object will only cross a State highway and minimal disruption of traffic is anticipated; or

C) on moves over 18 feet high if a field investigation reveals there are not any overhead obstructions.

e) Local police escorts may be required in lieu of State Police escorts when the move is made entirely within the limits of a city or county. It is the responsibility of the permittee to make all arrangements with the local police when the permit specifies such an escort as a condition of the permit.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: OVERSIZE VEHICLES AND LOADS

Section 554.501 Scope

a) Permits may be issued for overdimension objects and vehicles if they have been reasonably disassembled. Objects must be loaded within legal dimensions, if at all possible. Multiple objects, loaded side-by-side, end-to-end, or on top of each other, may not cause the overdimension. However, more than one overdimension object may be transported if it does not result in another dimension that exceeds legal limits.

b) Permits to move empty overdimension vehicles may be obtained, but these vehicles may not normally be used to transport legal size loads. Consideration will be given to the movement of a legal size object requiring a special carriage that results in an oversize vehicle. An overdimension vehicle may be used to transport an overdimension object.

c) Permits will not be issued for empty or loaded double-bottom units that exceed legal maximum size or weights.

d) Nondivisible load or vehicles~~loads~~.

1) Permit loads are deemed to be reasonably dismantled (nondivisible) if, when separated into smaller loads or vehicles, ~~when~~ further dismantling would:

A) Compromise the intended use of the load or vehicle; that is, make it unable to perform the function for which it was intended;

B) Destroy the value of the load or vehicle; that is, make it unusable for its intended purpose; or

C) Require more than 8 work hours to dismantle using appropriate equipment. The applicant for a nondivisible load has the burden of proof as to the number of workhours required to dismantle the load.

2) The Department may treat emergency response vehicles, ~~and~~ casks designed and used for the transport of spent nuclear materials, and military

vehicles transporting marked military equipment or material as nondivisible vehicles or loads (see 23 CFR 658.5, April 1, 2006).

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

SUBPART F: OVERWEIGHT VEHICLES AND LOADS

Section 554.604 Practical Maximum Weights

All requests for overweight moves are considered. However, due to the physical capacity of the highways and bridges, practical maximum weights have been established. Although many bridges will not carry these weights, routes are generally available to most destinations. These weights are:

a) 6-axle tractor semitrailer combination 120,000 pounds gross; 48,000 pounds on drive tandem; 60,000 pounds on semitrailer 3-axle tandem.

b) 5-axle tractor semitrailer combination 100,000 pounds gross; maximum of 48,000 pounds on either tandem.

c) 4-or-more-axle vehicle (axle spacing 23 feet or more): up to and including 76,000 pounds gross; maximum of 34,000 pounds on one tandem and 44,000 pounds on the other.

d) 3-or-more-axle vehicle (axle spacing 18 feet or more): maximum 68,000 pounds gross; 20,000 pounds on one axle and 48,000 pounds on the tandem.

e) 2-axle vehicle: maximum 48,000 pounds, neither axle exceeds 25,000 pounds.

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

Section 554.605 Superload Moves ~~in Excess of Practical Maximums~~

Superload~~Overweight~~ moves ~~in excess of the practical maximums~~ or moves on nonstandard vehicles or with nonstandard axle configurations may be authorized if allowable pavement and bridge stresses are not exceeded. These moves normally require additional time for analyses.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section 554.607 Movement to a Designated Scale

Sections 15-301(b) and (f) of the Illinois Size and Weight Law allow the permittee to travel to a certified scale to verify the axle and gross weights of an overweight load when the permittee is uncertain of the correct weights. The following conditions apply:

a) The permittee must, on his original application, request that he be routed to a certified scale, the location of which he has designated on the application.

b) For superloads~~loads that exceed practical maximums~~, the scale must be the nearest scale to the permittee's origin that has been certified by the Illinois Department of Agriculture (State weigh stations included). "Nearest scale" for routine permit loads~~ with weights not exceeding practical maximums~~ is defined as a scale within 25 miles of the permitted load's origin. The scale must be certified by the Illinois Department of Agriculture (State weigh stations included). However, if size and/or weight limits preclude the use of the requested scale, the permittee shall be routed to the first scale located within the route assigned by the Permit Office provided such scale is located within 25 miles of the permittee's origin or no more than ⅓ of the total distance of the permitted route, whichever distance is less.

c) The permittee must indicate the requested routing.

d) If any routes under the jurisdiction of local agencies are included in the routing, the permittee must provide evidence that he has secured approval from the local authority having jurisdiction.

e) Due to the volume of permits handled, the Permit Office cannot assist the permittee in determining the closest certified scale. By approving the routing to the scale as requested by the applicant and indicating the weight of the load is to be checked at a designated scale, the Permit Office in no way implies that it is the closest certified scale to the permittee's origin. If a police officer finds there is a closer certified scale, he may require the driver to travel to that scale; however, it is that officer's responsibility to verify the routes can accommodate the load.

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

SUBPART G: SPECIFIC POLICIES INDUSTRIAL HIGHWAY CROSSING

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section 554.705 Disabled Vehicles

A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, which exceeds the legal length and/or weight limits may be operated on a highway under the following conditions. (See Sections 15-107 and 15-111 of the Illinois Size and Weight Law):

a) Prior to towing, neither the disabled vehicle, disabled combination of vehicles, nor the tow truck shall individually exceed the legal length or weight limits. ~~1)When overlength, the towing shall not exceed a distance of 50 miles from the initial point of wreck or disablement. 2)~~When overweight, the towing shall not exceed a distance of 20 miles from the initial point of wreck or disablement provided neither the tow truck nor the vehicle being towed shall exceed the following axle weight limits:

Single rear axle – 24,000 pounds

Tandem rear axle – 44,000 pounds.

b) Any additional movement of the disabled vehicles shall be under normal permit procedures (Section 554.306). Requests for the emergency movement of equipment when the Permit Office is closed will be considered under the provisions of Section 554.801.

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

SUBPART H: EMERGENCIES AND HAZARDOUS MATERIALS

Section 554.804 Radioactive Materials

Permits may be issued for the movement of an overweight and/or overwidth~~legal size~~ container, empty or loaded, designed for transporting radioactive materials. The moves must conform to all applicable safety regulations. These moves are made under the same conditions and provisions as other overweight moves, except it is recommended they not be made in congested areas over critical highway facilities or during rush hour periods. Federal regulations may require routing around certain urban areas.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART I: FEES

Section 554.907 Supplemental Permit Fees

The Permit Office shall collect a fee of $5 for each supplemental permit (revisions or extensions). In addition, if the supplemental permit provides for an increase in size, weight, or mileage, those additional fees will be charged. However, no credit can be given for fees paid if dimensions, weights, or mileages are reduced. A handling fee of $50 is added for supplements to superload permits~~outside of practical maximums~~.

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

COURT OF CLAIMS

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Court of Claims Regulations

2) Code Citation: 74 Ill. Adm. Code 790

3) Section Number: 790.270 Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by the Court of Claims Act [705 ILCS 505/9]

5) Effective Date of Amendment: July 18, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file and available for inspection at the State of Illinois Court of Claims, 630 S. College, Springfield IL 62756.

9) Notice of Proposed Published in the Illinois Register: March 7, 2008; 32 Ill. Reg. 3130

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: None

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking affects filing fees for an incarcerated person, pursuant to Supreme Court Rule 298. The amended rulemaking will allow an incarcerated person who has filed as a poor person to have his or her filing fees waived.

16) Information and questions regarding this adopted amendment shall be directed to:

COURT OF CLAIMS

NOTICE OF ADOPTED AMENDMENT

Matt Finnell, Court Administrator
State of Illinois Court of Claims
630 S. College
Springfield, Illinois 62756

217/782-0111

The full text of the Adopted Amendment begins on the next page:

COURT OF CLAIMS

NOTICE OF ADOPTED AMENDMENT

TITLE 74: PUBLIC FINANCE
CHAPTER VI: COURT OF CLAIMS

PART 790
COURT OF CLAIMS REGULATIONS

SUBPART A: COURT OF CLAIMS RULES

Section
790.10 Terms of Court
790.20 Pleadings and Practice
790.25 Rule References
790.30 Pleadings – Forms
790.40 Procedure
790.50 Complaint-Required Provisions
790.55 Discovery
790.60 Exhaustion of Remedies
790.70 General Continuance – Status Report
790.80 Death of Claimant
790.90 Dismissal
790.100 Answer by Respondent
790.110 Hearings – Assignments and Continuances
790.120 Transcript of Evidence
790.130 Costs of Evidence
790.140 Departmental Records and Reports – Prima Facie Evidence
790.150 Medical Examination of Claimant
790.155 Subpoenas
790.160 Excerpts from the Record
790.170 Briefs
790.180 Excerpts and Briefs – Time for Filing
790.190 Extension of Time
790.200 Motions
790.210 Oral Argument of Case
790.220 Rehearing or New Trial – Time to File
790.230 Rehearing – Procedure
790.240 New Trial (Repealed)
790.250 Records – Calendar
790.260 Dismissal for want of Prosecution
790.270 Fees and Costs

COURT OF CLAIMS

NOTICE OF ADOPTED AMENDMENT

SUBPART B: ADOPTION AND EFFECTIVE DATES

Section
790.280 Adoption and Effective Dates

AUTHORITY: Authorized by Section 9A and implementing the Court of Claims Act [705 ILCS 505].

SOURCE: Rules of the Court of Claims, filed and effective July 1, 1975; codified at 6 Ill. Reg. 2111; recodified at 6 Ill. Reg. 2594; amended at 24 Ill. Reg. 8228, effective July 1, 2000; amended at 32 Ill. Reg. 12315, effective July 18, 2008.

SUBPART A: COURT OF CLAIMS RULES

Section 790.270 Fees and Costs

a) In claims based upon lapsed appropriations or lost warrant no filing fee shall be required. In all other claims the following fees shall apply:

Filing of complaint in which amount of claim is more than $50 and less than $1,000 ..... $15

Filing of complaint in which amount of claim is $1,000 or more $35

b) Filing fees may be waived for a poor person, ~~other than an incarcerated person,~~ pursuant to Supreme Court Rule 298, upon application provided and approved by the Court of Claims.

~~c) A claimant who is incarcerated in a facility of the Illinois Department of Corrections who does not have sufficient funds to pay the filing fee at the outset of the case shall be required to complete and sign under oath a petition to proceed without full prepayment of fees and costs and a financial affidavit. All petitions for leave to proceed without prepayment of fees and costs must be accompanied by a copy of the inmate's trust fund ledger showing all deposits and withdrawals made to the account for the 6 months immediately preceding the submission of the petition. The respondent Illinois Department of Corrections shall fill in the amount of the trust fund and provide claimant with a copy of a 6 months ledger of~~

~~all withdrawals and deposits to the inmate's trust fund. The claimant shall send one petition and trust fund ledger with each claim. Upon receipt of an inmate's claim, the petition for leave to proceed in forma pauperis, and a copy of the trust fund ledger, the Clerk shall assign a number to the claim and shall forward the documents to the Chief Justice for review. If the petition reveals that the inmate is unable to prepay the full filing fee, the Chief Justice shall enter an initial prepayment order. The claimant will be required to prepay an initial partial filing fee of 20% of the greater of:~~

~~1) the average monthly deposits to the inmate's account; or~~

~~2) the average monthly balance in the inmate's account for the prior 6 months period.~~

~~Irrespective of the amount of the initial filing fee, the claimant must make monthly payments of 20% of his or her income until the statutory filing fee is paid in its entirety. If prepayment of the initial filing fee is made within 45 days from the date of the Court's order on the petition, the inmate will be granted leave to proceed in forma pauperis and the claim will be filed. Thereafter, the respondent Illinois Department of Corrections shall forward payments from the inmate's account to the Clerk each time the amount in claimant's account exceeds $10, until the filing fee is paid. If partial payment of the filing fee is not made within 45 days after the date of the Court's prepayment order, or if in that time period the claimant has not shown cause why the partial fee cannot be paid, the petition shall be denied and the claim shall be dismissed. If the claimant shows good cause why the initial partial fee cannot be paid, the Chief Justice shall review the claim and rule upon the petition. Regardless of whether the initial partial filing fee is waived, the claimant is responsible for paying the full filing fee in monthly installments. A claimant may request a waiver of any of the provisions of this Section by filing a motion with the Clerk stating in brief what requirements the claimant wants waived and why. The Court will consider each motion individually; however, motions to waive these requirements will not be routinely allowed. In the absence of the Chief Justice, any Judge may enter the orders authorized by this Section. In no case may a claim be dismissed without the concurrence of 4 Judges.~~

c~~d~~) Certified copies of documents filed in the Court of Claims may be obtained upon application to the Secretary of State and payment of the prescribed costs.

COURT OF CLAIMS

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 32 Ill. Reg. 12315, effective July 18, 2008)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Narrative and Planning Policies

2) Code Citation: 77 Ill. Adm. Code 1100

3)

Section Numbers:	Adopted Action:
1100.220	Amendment
1100.800	New

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) Effective Date of Rulemaking: July 18, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Amendments Published in Illinois Register: 32 Ill. Reg. 1039; January 25, 2008

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 1100.220, after the definition of "Planning Area", add the following:

"Resource Hospital" means the hospital that is responsible for an Emergency Medical Services System (EMS) in a specific geographic region. Responsibilities include education for EMS personnel and recommendations for their re-licensure, and development of standard medical protocols for the EMS system for which it takes the lead. Resource hospitals deal with pre-hospital and Emergency Department issues only, unlike the Trauma Center. The Resource Hospital functions with the Associate and Participating Hospitals within the specific EMS system. There are 62 EMS systems within 11 EMS Regions in Illinois.".

The following change were made in response to comments and suggestions of JCAR:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

1. In Section 1100.200, in the definition of "Freestanding Emergency Center", change "Systems (EMS)" to "(EMS) Systems".

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: In Section 1100.220, the amendments include new definitions for Freestanding Emergency Center and Freestanding Emergency Center Medical Services (FECMS), a new category of service.

Section 1100.800 provides planning policies for the FECMS category of service. The policies concern: planning areas, age groups, utilization standards, and need determination.

16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

e-mail: DPH.RULES@illinois.gov

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

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1100
NARRATIVE AND PLANNING POLICIES

SUBPART A: GENERAL NARRATIVE

Section
1100.10 Introduction
1100.20 Authority
1100.30 Purpose
1100.40 Health Maintenance Organizations (Repealed)
1100.50 Subchapter Organization
1100.60 Mandatory Reporting of Data
1100.70 Data Appendices
1100.75 Annual Bed Report
1100.80 Institutional Master Plan Hospitals (Repealed)
1100.90 Public Hearings

SUBPART B: GENERAL DEFINITIONS

Section
1100.210 Introduction
1100.220 Definitions

SUBPART C: PLANNING POLICIES

Section
1100.310 Need Assessment
1100.320 Staffing
1100.330 Professional Education
1100.340 Public Testimony
1100.350 Multi-Institutional Systems
1100.360 Modern Facilities
1100.370 Occupancy/Utilization Standards
1100.380 Systems Planning
1100.390 Quality

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1100.400 Location
1100.410 Needed Facilities
1100.420 Discontinuation
1100.430 Coordination with Other State Agencies
1100.440 Requirements for Authorized Hospital Beds

SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section
1100.510 Introduction, Formula Components and Planning Area Development Policies
1100.520 Medical-Surgical/Pediatric Categories of Service
1100.530 Obstetric Category of Service
1100.540 Intensive Care Category of Service
1100.550 Comprehensive Physical Rehabilitation Category of Service
1100.560 Acute Mental Illness Category of Service
1100.570 Substance Abuse/Addiction Treatment Category of Service (Repealed)
1100.580 Neonatal Intensive Care Category of Service
1100.590 Burn Treatment Category of Service (Repealed)
1100.600 Therapeutic Radiology Equipment (Repealed)
1100.610 Open Heart Surgery Category of Service
1100.620 Cardiac Catheterization Services
1100.630 Chronic Renal Dialysis Category of Service
1100.640 Non-Hospital Based Ambulatory Surgery
1100.650 Computer Systems (Repealed)
1100.660 General Long-Term Care-Nursing Care Category of Service
1100.661 General Long-Term Care-Sheltered Care Category of Service (Repealed)
1100.670 Specialized Long-Term Care Categories of Service
1100.680 Intraoperative Magnetic Resonance Imagining Category of Service (Repealed)
1100.690 High Linear Energy Transfer (L.E.T.) (Repealed)
1100.700 Positron Emission Tomographic Scanning (P.E.T.) (Repealed)
1100.710 Extracorporeal Shock Wave Lithotripsy (Repealed)
1100.720 Selected Organ Transplantation
1100.730 Kidney Transplantation
1100.740 Subacute Care Hospital Model
1100.750 Postsurgical Recovery Care Center Alternative Health Care Model
1100.760 Children's Respite Care Center Alternative Health Care Model
1100.770 Community-Based Residential Rehabilitation Center Alternative Health Care Model
1100.800 Freestanding Emergency Center Medical Services Category of Service

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

1100.APPENDIX A Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 6, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18 Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2985, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30, 1995; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2594; amended at 20 Ill. Reg. 14778, effective November 15, 1996; amended at 21 Ill. Reg. 6220, effective May 30, 1997; expedited correction at 21 Ill. Reg. 17201, effective May 30, 1997; amended at 23 Ill. Reg. 2960, effective March 15, 1999; amended at 24 Ill. Reg. 6070, effective April 7, 2000; amended at 25 Ill. Reg. 10796, effective August 24, 2001; amended at 27 Ill. Reg. 2904, effective February 21, 2003; amended at 31 Ill. Reg. 15255, effective November 1, 2007; amended at 32 Ill. Reg. 4743, effective March 18, 2008; amended at 32 Ill. Reg. 12321, effective July 18, 2008.

SUBPART B: GENERAL DEFINITIONS

Section 1100.220 Definitions

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Admissions" means the number of patients accepted for inpatient service during a 12-month period; the newborn are not included.

"Applicable Codes and/or Current Recognized Standards" means the current

official codes of governmental bodies applicable under law or regulation to Illinois health facilities and/or standards of health facility design, construction and equipment promulgated on a regular or permanent basis by an authority, public or private. A listing of the applicable codes utilized in the application review process may be found in Appendix A of this Part.

"Authorized Hospital Bed Capacity" means the number of beds recognized for planning purposes at a hospital facility, as determined by HFPB. The operational status of authorized hospital beds is identified as physically available, reserve, or transitional, as follows:

> "Physically Available Beds" means beds that are physically set up, meet hospital licensure requirements, and are available for use. These are beds maintained in the hospital for the use of inpatients and that furnish accommodations with supporting services (such as food, laundry, and housekeeping). These beds may or may not be staffed, but are physically available.
>
> "Reserve Beds" means beds that are not set up for inpatients, but could be made physically available for inpatient use within 72 hours.
>
> "Transitional Beds" means beds for which a Certificate of Need (CON) has been issued, but that are not yet physically available, and beds that are temporarily unavailable due to modernization projects that do not require a CON.

"Authorized Long-Term Care Bed Capacity" means the number of beds by category of service, recognized and licensed by IDPH for long-term care.

"Average Daily Census" or "ADC" means over a 12-month period the average number of inpatients receiving service on any given day.

"Average Length of Stay" or "ALOS" means over a 12-month period the average duration of inpatient stay expressed in days as determined by dividing total inpatient days by total admissions.

"Category of Service" means a grouping by generic class of various types or levels of support functions, equipment, care or treatment provided to patient/residents. Examples include but are not limited to medical-surgical,

pediatrics, cardiac catheterization, etc. A category of service may include subcategories or levels of care that identify a particular degree or type of care within the category of service.

"Emergency Medical Services System" or "EMS System" means *an organization of hospitals, vehicle service providers and personnel approved by IDPH in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS, ILS, and/or ALS level pursuant to a System program plan submitted to and approved by IDPH, and pursuant to the EMS Region Plan adopted for the EMS Region in which the System is located.* [210 ILCS 50/3.20]

"Emergent Care" means medical or surgical procedures and care provided to those patients treated in an emergency department (ED) of a hospital or freestanding emergency center who have traumatic conditions or illnesses with an acuity level that is classified as level one or level two based upon the Emergency Severity Index (ESI) as defined in the "Emergency Severity Index Version 4: Implementation Handbook" published by the Agency for Healthcare Research and Quality, Rockville MD (Gilboy N, Tanabe P, Travers DA, Rosenau AM, Eitel DR; AHRQ Publication No. 05-0046-2; May 2005, no later amendments or editions included).

"Executive Secretary or Secretary" means the chief executive officer of the State Board, responsible to the Chairman and, through the Chairman, responsible to the State Board for the execution of its policies and procedures.

"Freestanding Emergency Center" or "FEC" means a facility subject to licensure under Section 32.5 of the Emergency Medical Services (EMS) Systems Act [210 ILCS 50/32.5] that provides emergency medical and related services.

"Freestanding Emergency Center Medical Services" or "FECMS" means a category of service pertaining to the provision of emergency medical and related services provided in a freestanding emergency center.

"Health Service Area" or "HSA" means the following geographic areas:

HSA I – Illinois Counties of Boone, Carroll, DeKalb, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago

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HSA II – Illinois Counties of Bureau, Fulton, Henderson, Knox, LaSalle, Marshall, McDonough, Peoria, Putnam, Stark, Tazewell, Warren, and Woodford

HSA III – Illinois Counties of Adams, Brown, Calhoun, Cass, Christian, Greene, Hancock, Jersey, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, and Scott

HSA IV – Illinois Counties of Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Iroquois, Livingston, Macon, McLean, Moultrie, Piatt, Shelby, and Vermilion

HSA V – Illinois Counties of Alexander, Bond, Clay, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Perry, Pope, Pulaski, Randolph, Richland, Saline, Union, Wabash, Washington, Wayne, White, and Williamson

HSA VI – City of Chicago

HSA VII – DuPage County and Suburban Cook County

HSA VIII – Illinois Counties of Kane, Lake, and McHenry

HSA IX – Illinois Counties of Grundy, Kankakee, Kendall, and Will

HSA X – Illinois Counties of Henry, Mercer, and Rock Island

HSA XI – Illinois Counties of Clinton, Madison, Monroe, and St. Clair

"Hospital" means a facility, institution, place or building licensed pursuant to or operated in accordance with the Hospital Licensing Act [210 ILCS 45] or a State-operated facility that is utilized for the prevention, diagnosis and treatment of physical and mental ills. For purposes of this Subchapter, two basic types of hospitals are recognized:

General Hospital – a facility that offers an integrated variety of categories of service and that offers and performs scheduled surgical procedures on an inpatient basis.

Special or Specialized Hospital – a facility that offers, primarily, a special or particular category of service.

"*Illinois Department of Public Health" or "Agency"* or "IDPH" *means the Department of Public Health of the State of Illinois.* [20 ILCS 3960/3]

"Modernization" means modification of an existing health care facility by means of building, alteration, reconstruction, remodeling, replacement, the erection of new buildings, or the acquisition, alteration or replacement of equipment. Modification does not include a substantial change in either the bed count or scope of the facility.

"Non-emergent Care" means medical or surgical procedures and care provided to those patients treated in an emergency department (ED) of a hospital or freestanding emergency center who have conditions or illnesses that are not classified as level one or level two based upon the Emergency Severity Index.

"Observation Days" means the number of days of service provided to outpatients for the purpose of determining whether a patient requires admission as an inpatient or other treatment. The observation period shall not exceed 48 hours.

"Occupancy Rate" means a measure of inpatient health facility use, determined by dividing average daily census by the calculated capacity. It measures the average percentage of a facility's beds occupied and may be institution-wide or specific for one department or service.

"Occupancy Target" means a minimum utilization level established by IDPH for a facility or service, reflecting adequate access as well as operational efficiency.

"Patient Days" means the total number of days of service provided to inpatients of a facility over a 12-month period. This figure includes observation days if the observation patient occupies a bed that is included in the State Agency's Inventory of Health Care Facilities and Services as described in Section 1100.70.

"Population" or "Population Projections" means the latest estimates available as determined by IDPH.

"Planning Area" means a defined geographic area within the State established by

the State Board as a basis for the collection, organization, and analysis of information to determine health care resources and needs and to serve as a basis for planning.

"Resource Hospital" means the hospital that is responsible for an Emergency Medical Services (EMS) System in a specific geographic region. Responsibilities include education for EMS personnel and recommendations for their re-licensure, and development of standard medical protocols for the EMS system for which it takes the lead. Resource hospitals deal with pre-hospital and Emergency Department issues only, unlike the Trauma Center. The Resource Hospital functions with the Associate and Participating Hospitals within the specific EMS system. There are 62 EMS systems within 11 EMS Regions in Illinois.

"Site" means the location of an existing or proposed facility. An existing facility site is determined by street address. In a proposed facility the legal property description or the street address can be used to identify the site.

"State Board" means the Health Facilities Planning Board established by the Act. [20 ILCS 3960/3]

"Unit" means the grouping of beds to provide a category of service. Units are physically identifiable areas that are staffed to provide all care required for particular service.

"Use Rate" means the ratio of inpatient days per 1,000 population over a 12-month period (Inpatient Days/Population in Thousands = Use Rate).

"Use Rate or Utilization Maximum" means a ceiling placed on an area's use or utilization rate in order to reduce the projected need for beds or services. Use rate maximums are designed to prevent the overestimation of needed beds in formulas which utilize historical demand. Maximums are used in planning areas where historical demand is inflated due to an immigration of patients from other planning areas.

"Use Rate or Utilization Minimum" means a lower limit placed on an area's use or utilization rate in order to inflate the projected need for beds or services. Use rate minimums are designed to promote the development of beds in areas where historical utilization is too low to create a formula bed need. Low utilization is caused by a lack of services in the area or by an out migration of area residents to

other areas for care.

"Utilization" means patterns or rates of use of a single service or type of service, within a given facility or also in combinations of facilities. Use is expressed in rates per unit of population at risk for a given period.

"Variance" means an exception to computed need based upon criteria or conditions for particular categories of service.

(Source: Amended at 32 Ill. Reg. 12321, effective July 18, 2008)

SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section 1100.800 Freestanding Emergency Center Medical Services Category of Service

a) Planning Areas
Planning areas are the same as those for medical-surgical and pediatric care.

b) Age Groups
For freestanding emergency center medical services, all ages.

c) Utilization
The minimum operational capacity for each treatment station in an FEC is 5.5 patients per day (2000 patient visits per year) based upon 24-hour availability.

d) Need Determination
No formula need determination for the establishment of a freestanding emergency center medical service category of service or the number of treatment stations has been established. Need shall be established pursuant to the applicable review criteria of 77 Ill. Adm. Code 1110.

(Source: Added at 32 Ill. Reg. 12321, effective July 18, 2008)

HEALTH FACILITES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Processing, Classification Policies and Review Criteria

2) Code Citation: 77 Ill. Adm. Code 1110

3)

Section Numbers:	Adopted Action:
1110.3210	New
1110.3230	New

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) Effective Date of Rulemaking: July 18, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Amendments Published in Illinois Register: 32 Ill. Reg. 1050; January 25, 2008

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 1110.3230(a), in the table, delete "Planning Area Need" after "(b)(2)"; and delete "Planning" after "Service to".

2. In Section 1110.3230(a), in the table, delete "Planning Area Need –", after "(b)(3)".

3. In Section 1110.3230(a), in the table, delete "Planning Area Need –", after "(b)(4)".

4. In Section 1110.3230(a), in the "Required Review Criteria" column of the table, under "(c)(2) – "Maldistribution", add a box to the table stating "(c)(3) - Impact on Other Providers".

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5. In Section 1110.3230(a), in the "Required Review Criteria" column of the table, under "(c)(3)" (described above), add a box to the table stating "(c)(4) – Request for Data from Other Providers".

6. In Section 1110.3230(a), in the line for "Expansion of Existing Service", in the "Required Review Criteria" column of the table, after "(b)(2)", delete "Planning Area Need –"; and after "Service to", delete "Planning".

7. In Section 1110.3230(a), in the column for "Required Review Criteria" for "Category of Service Modernization" in the table, after "(d)(2) – Documentation", add a box to the table stating "(d)(3) – Additional Documentation".

8. In Section 1110.3230(a)(5), after "including the", add "requirements that the proposed FEC is" and delete "following".

9. In Section 1110.3230(a)(5)(A), delete "Be" and replace "located" with "Located".

10. In Section 1110.3230(a)(5)(B), add "Located" and delete "Be".

11. In Section 1110.3230(a)(5)(C), delete "Be" and replace "within" with "Within".

12. In Section 1110.3230(b), delete "Planning".

13. In Section 1110.3230(b)(2), after "Service to", delete "Planning".

14. In Section 1110.3230(b)(2), after "residents of the", add "geographic service"; and after "area", add "(GSA) that is defined as 30 minutes travel time from the proposed FEC site."; and delete "in which the proposed project will be physically located (i.e., the planning area).".

15. In Section 1110.3230(b)(2)(A), after "consist of", add "patient origin data, as follows:"; and add "i)" ; after "i)", move down "Letters from authorized representatives of hospitals or other FEC facilities that are part of the Emergency Medical Services System (EMSS) for the"; add "defined GSA"; delete "area," and add "including patient origin data by Zip Code; or".

HEALTH FACILITES PLANNING BOARD

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16. In Section 1110.3230(b)(2)(A), after the previous subsection, add "ii)". After "ii)", add "Patient origin data by Zip Code from independent data sources (i.e., Illinois Hospital Association CompData or IDPH Hospital discharge data).".

17. In Section 1110.3230(b)(2)(A), after new subsection "ii)", add "iii)"; after "iii)", move down the following language [as amended]:

"The documentation shall provide patient origin information by Zip Code, based upon the patient's legal residence, for patients receiving services at the existing GSA facilities' emergency departments (ED), verifying that at least 50% of the ED patients served for the last 12-month period were residents of the GSA.".

18. In Section 1110.3230(b)(2)(A), after new subsection "iii)", add "iv)". After "iv)", move down the following language [as amended]:

"If letters are submitted as documentation, each letter shall contain a certification by the authorized representative that the representations contained in the letter are true and correct. A complete set of the letters with the original notarized signatures shall accompany the application for permit.".

19. In Section 1110.3230(b)(2)(B), after "residents of the", add "GSA"; after "GSA", delete "planning area".

20. In Section 1110.3230(b)(2)(B), after the deleted "area", add "as defined above".

21. In Section 1110.3230(b)(3), after "existing", add "GSA (as defined in 1110.3230(b)(2)) hospitals"; and delete "EMSS".

22. Delete subsections 1110.3230(b)(3)(A)(i) and 1110.3230(b)(3)(A)(ii).

23. In Section 1110.3230(b)(3)(B), delete "B) Projected Service Demand – Data Requirements" and delete "The applicant shall document:" and replace with "A) Historical Utilization".

24. In Section 1110.3230(b)(3)(A)-(Historical Utilization), delete "i)"; and add "The applicant shall document"; after "document", replace "The" with "the annual".

HEALTH FACILITES PLANNING BOARD

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25. In Section 1110.3230(b)(3)(A), delete "annually (specifying the number that required emergency treatment or immediate care and the number that required non-emergency care of treatment)".

26. In Section 1110.3230(b)(3)(A), after "facilities that are", add "located in"; and delete "members"; and after "applicant's", add "defined GSA" and delete "EMSS".

27. Following Section 1110.3230(b)(3)(A), add "B) Projected Utilization"; add "The applicant shall document:".

28. In Section 1110.3230(b)(3)(B), after "proposed FEC", delete "(specifying the estimated number that will require emergency treatment or immediate care and the number that will require non-emergency care treatment)".

29. In Section 1110.3230(b)(3)(B)(i), after "caseload", add "all hospitals that are located in the applicant's defined GSA".; and delete the following:

    "The data shall be submitted by letter and certified by an authorized representative of the applicant resource hospital, and state that the estimated number of patients to receive services has nt been used to support another pending or approved CON application for FECMCS and that the representations contained in the letter are true and correct. A complete set of the letters with original notarized signatures shall accompany the application for permit;".

30. In Section 1110.3230(b)(3)(B)(ii), after "ii)", add "If applicable,".

31. In Section 1110.3230(b)(3)(B)(ii), after "FEC", delete the following:

    "(specifying the estimated number that will require emergency treatment or immediate care and the number that will require non-emergency care or treatment)".

32. In Section 1110.3230(b)(3)(C)(i), after "for", add "Zip Code".

33. In Section 1110.3230(b)(4), after "for", add "GSA"; and delete "planning area".

34. In Section 1110.3230(b)(4)(A), after "exists in the", add "GSA" and delete "planning area".

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35. In Section 1110.3230(b)(4)(A)(i), after "absence of", delete "the proposed"; and add "GSA" and delete "planning area".

36. Delete subsections 1110.3230(b)(4)(A)(ii) and 1110.3230(b)(4)(A)(iii).

37. In Section 1110.3230(b)(4)(A)(ii), after "such as", delete "an average family income level below the State average poverty level,".

38. In Section 1110.3230(b)(4)(B)(i), after "other", add "GSA"; and delete "planning".

39. In line Section 1110.3230(b)(4)(B)(v), after "exist in", add "GSA" and delete "planning area".

40. In Section 1110.3230(b)(4)(B)(v), after "in", add "GSA"; and delete "area".

41. In Section 1110.3230(c)(2), delete "area (within the planning area) has" and replace with "facilities within the Normal Travel Time have".

42. In Section 1110.3230(c)(3)(A), after "other", add "GSA"; and delete "area".

43. In Section 1110.3230(c)(3)(B), after "other", add "GSA"; and delete "area".

44. In Section 1110.3230(c)(4), after "utilization", delete the following:

"(specifying) the number of patients receiving emergency treatment or care and non-emergency treatment or care)".

The following change were made in response to comments and suggestions of JCAR:

1. In Section 1110.3230(a)(5), delete "located".

2. In Section 1110.3230(b)(2)(A), reformat text to the following:

"i) Letters from authorized representatives from hospitals or other FEC facilities that are part of the Emergency Medical Services (EMS) System for the defined GSA, including patient origin data by zip code. If letters are submitted as documentation, a certification in each letter, by the authorized representative, that the representations contained in the letter

are true and correct. A complete set of the letters with original signatures shall accompany the application for permit; or

ii) Patient origin data by zip code from independent data sources (e.g., Illinois Hospital Association CompData or IDPH hospital discharge data, based upon the patient's legal residence, for patients receiving service at the existing GSA facilities' emergency departments (ED) verifying that at least 50% of the ED patients served during the last 12-month period were residents of the GSA.".

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The rulemaking concerning "Freestanding Emergency Centers" is an amendment to 77 Ill. Adm. Code 1110, as mandated by the Illinois Health Facilities Planning Act. The rulemaking contains review criteria for the establishment, expansion or modernization of freestanding emergency center medical services as a category of service. The review criteria contain various tests of need, including: geographic service area need, historical and projected service demand, service accessibility, unnecessary duplication/maldistribution; and staffing availability.

16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

e-mail: DPH.RULES@illinois.gov

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

HEALTH FACILITES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1110
PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA

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1110.30 Processing and Reviewing Applications
1110.40 Classification of Projects
1110.50 Recognition of Services Which Existed Prior to Permit Requirements
1110.55 Recognition of Non-hospital Based Ambulatory Surgery Category of Service
1110.60 Master Design Projects
1110.65 Master Plan or Capital Budget Projects

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SUBPART D: REVIEW CRITERIA RELATING TO ALL PROJECTS INVOLVING
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SUBPART H: CATEGORY OF SERVICE REVIEW CRITERIA – ACUTE MENTAL ILLNESS

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1110.810 Introduction (Repealed)
1110.820 Substance Abuse/Addiction Treatment – Definitions (Repealed)
1110.830 Substance Abuse/Addiction Treatment – Review Criteria (Repealed)

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1110.920 Neonatal Intensive Care – Definitions
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SUBPART K: CATEGORY OF SERVICE REVIEW CRITERIA – BURN TREATMENT

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1110.1010 Introduction (Repealed)
1110.1020 Burn Treatment – Definitions (Repealed)
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1110.1910 Introduction (Repealed)
1110.1920 Intraoperative Magnetic Resonance Imaging – Definitions (Repealed)
1110.1930 Intraoperative Magnetic Resonance Imaging – Review Criteria (Repealed)

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1110.2010 Introduction (Repealed)
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1110.2110 Introduction (Repealed)
1110.2120 Positron Emission Tomographic Scanning (P.E.T.) – Definitions (Repealed)
1110.2130 Positron Emission Tomographic Scanning (P.E.T.) – Review Criteria (Repealed)

SUBPART W: CATEGORY OF SERVICE REVIEW CRITERIA – EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY

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1110.2220 Extracorporeal Shock Wave Lithotripsy – Definitions (Repealed)
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SUBPART AG: CATEGORY OF SERVICE REVIEW CRITERIA –
FREESTANDING EMERGENCY CENTER MEDICAL SERVICES

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1110.3230 Freestanding Emergency Center Medical Services – Review Criteria

1110.APPENDIX A Medical Specialty Eligibility/Certification Boards
1110.APPENDIX B State and National Norms
1110.APPENDIX C Statutory Citations for All State and Federal Laws and Regulations Referenced in Chapter 3

HEALTH FACILITES PLANNING BOARD

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AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 18498; amended at 9 Ill. Reg. 3734, effective March 6, 1985; amended at 11 Ill. Reg. 7333, effective April 1, 1987; amended at 12 Ill. Reg. 16099, effective September 21, 1988; amended at 13 Ill. Reg. 16078, effective September 29, 1989; emergency amendments at 16 Ill. Reg. 13159, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 16 Ill. Reg. 16108, effective October 2, 1992; amended at 17 Ill. Reg. 4453, effective March 24, 1993; amended at 18 Ill. Reg. 2993, effective February 10, 1994; amended at 18 Ill. Reg. 8455, effective July 1, 1994; amended at 19 Ill. Reg. 2991, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 7981, effective May 31, 1995, for a maximum of 150 days; emergency expired October 27, 1995; emergency amendment at 19 Ill. Reg. 15273, effective October 20, 1995, for a maximum of 150 days; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2600; amended at 20 Ill. Reg. 4734, effective March 22, 1996; amended at 20 Ill. Reg. 14785, effective November 15, 1996; amended at 23 Ill. Reg. 2987, effective March 15, 1999; amended at 24 Ill. Reg. 6075, effective April 7, 2000; amended at 25 Ill. Reg. 10806, effective August 24, 2001; amended at 27 Ill. Reg. 2916, effective February 21, 2003; amended at 32 Ill. Reg. 12332, effective July 18, 2008.

SUBPART AG: CATEGORY OF SERVICE REVIEW CRITERIA – FREESTANDING EMERGENCY CENTER MEDICAL SERVICES

Section 1110.3210 Introduction

No person shall construct, modify, or establish a freestanding emergency center in Illinois, or acquire major medical equipment or make capital expenditures in relation to such a facility in excess of the capital expenditure minimum, as defined by the *Act, without first obtaining a permit from the State Board in accordance with criteria, standards, and procedures adopted by the State Board for freestanding emergency centers that ensure the availability of and community access to emergency medical services.* [20 ILCS 3960/5.1a]

(Source: Added at 32 Ill. Reg. 12332, effective July 18, 2008)

Section 1110.3230 Freestanding Emergency Center Medical Services − Review Criteria

a) Introduction

1) These criteria are applicable only to those projects or components of projects involving the freestanding emergency center (FEC) medical services (FECMS) category of service. In addition, the applicant shall address other applicable requirements in this Part, as well as those in 77 Ill. Adm. Code 1100 and 1130. Applicants proposing to establish, expand or modernize an FECMS category of service shall comply with the applicable subsections of this Section, as follows:

Project Type	Required Review Criteria
Establishment of Service	(b)(1) − Planning Area Need – 77 Ill. Adm. Code 1100 Formula Calculation
	(b)(2) − Service to Area Residents
	(b)(3) − Service Demand for Establishment
	(b)(4) − Service Accessibility
	(c)(1) − Unnecessary Duplication of Services
	(c)(2) – Maldistribution
	(c)(3) − Impact on Other Providers
	(c)(4) − Request for Data from Other Providers
	(e) − Staffing Availability
Expansion of Existing Service	(b)(2) − Service to Area Residents
	(e) − Staffing Availability
Category of Service Modernization	(d)(1) − Deteriorated Facilities
	(d)(2) − Documentation
	(d)(3) − Additional Documentation

2) If the proposed project involves the replacement of an FEC facility on site, the applicant shall comply with the requirements listed in subsection (a)(1) for Category of Service Modernization.

3) If the proposed project involves the replacement of the FEC facility on a new site, the applicant shall comply with the requirements listed in subsection (a)(1) for Establishment of Service.

4) All projects shall meet or exceed the utilization standards for the service, as specified in 77 Ill. Adm. Code 1100.

5) All projects for an FEC must comply with the licensing requirements established in the Emergency Medical Services (EMS) Systems Act [210 ILCS 50/32.5], including the requirements that the proposed FEC is located:

A) *in a municipality with a population of 75,000 or fewer inhabitants;*

B) *within 20 miles of the hospital that owns or controls the FEC; and*

C) *within 20 miles of the Resource Hospital affiliated with the FEC as part of the EMS system* (Section 32.5(a) of the Emergency Medical Services (EMS) Systems Act).

6) The applicant shall certify that it has reviewed, understands and plans to comply with all of the following requirements:

A) The requirements of becoming a Medicare provider of freestanding emergency services; and

B) The requirements of becoming licensed under the Emergency Medical Services Systems Act [210 ILCS 50].

b) Area Need – Establishment or Expansion of Service

1) 77 Ill. Adm. Code 1100 Formula Calculation
No formula need calculation has been established for the FECMS category of service.

2) Service to Area Residents
Applicants proposing to establish or expand an FECMS category of service shall document that the primary purpose of the project will be to provide necessary health care to the residents of the geographic service area (GSA), which is defined as 30 minutes travel time from the proposed FEC site.

A) For projects to establish an FECMS category of service, the applicant shall document that at least 50% of the projected patient volume will be residents of the GSA described in subsection (b)(2). Documentation shall consist of patient origin data, as follows:

i) Letters from authorized representatives of hospitals or other FEC facilities that are part of the Emergency Medical Services (EMS) System for the defined GSA, including patient origin data by zip code. If letters are submitted as documentation, a certification in each letter, by the authorized representative, that the representations contained in the letter are true and correct. A complete set of the letters with original notarized signatures shall accompany the application for permit; or

ii) Patient origin data by zip code from independent data sources (e.g., Illinois Hospital Association CompData or IDPH hospital discharge data), based upon the patient's legal residence, for patients receiving services at the existing GSA facilities' emergency departments (ED), verifying that at least 50% of the ED patients served during the last 12-month period were residents of the GSA.

B) An applicant proposing to expand an FECMS category of service shall provide patient origin information for all patients served at the existing FEC facility for the last 12-month period, verifying that at least 50% of patients served were residents of the GSA, as defined in subsection (b)(2). The applicant shall submit patient origin information by zip code, based upon the patient's legal residence.

3) Service Demand − Establishment of FECMS Category of Service
The applicant shall document that establishment of an FECMS category of service is necessary to accommodate the service demand experienced annually by the existing GSA (as defined in subsection (b)(2)) hospitals over the latest two-year period.

A) Historical Utilization
The applicant shall document the annual number of ED patients that have received care at facilities that are located in the applicant's defined GSA for the latest two-year period prior to submission of the application;

B) Projected Utilization
The applicant shall document:

i) the estimated number of patients anticipated to receive services at the proposed FEC. The anticipated number cannot exceed the documented historical caseload of all hospitals that are located in the applicant's defined GSA.

ii) if applicable, the estimated number of patients anticipated to receive services at the proposed FEC, based upon rapid population growth in the applicant facility's existing market area.

C) Projected Service Demand – Documentation Parameters

i) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year for zip code, county, incorporated place, township, or community area by the U.S. Census Bureau or IDPH;

ii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iii) The number of years projected shall not exceed the number of historical years documented;

iv) Projections shall contain documentation of population changes in terms of births, deaths, and net migration for a period of time equal to or in excess of the projection horizon;

v) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFPB for each category of service in the application; and

vi) Documentation on projections methodology, data sources, assumptions and special adjustments shall be submitted to HFPB.

4) Service Accessibility
The proposed project to establish or expand an FECMS category of service is necessary to improve access for GSA residents. The applicant shall document the following:

A) Service Restrictions
The applicant shall document that at least one of the following factors exists in the GSA:

i) The absence of ED services within the GSA;

ii) The area population and existing care system exhibit indicators of medical care problems, such as high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

iii) All existing emergency services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

i) The location and utilization of other GSA service providers;

ii) Patient location information by zip code;

iii) Travel-time studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in GSA providers;

vi) An assessment of GSA population characteristics that documents that access problems exist;

vii) Most recently published IDPH Hospital Questionnaire.

c) Unnecessary Duplication/Maldistribution – Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas (in total or in part) that are located within 30 minutes normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide emergency medical services.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified facilities within the Normal Travel Time have an excess supply of ED treatment stations characterized by such factors as, but not limited to:

A) Historical utilization (for the latest 12-month period prior to submission of the application) for existing ED within 30 minutes travel time of the applicant's site that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100; or

B) Insufficient population to provide the volume or caseload necessary to utilize the ED services proposed by the project at or above utilization standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other GSA providers below the utilization standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other GSA hospitals or FECs that are currently (during the latest 12-month period) operating below the utilization standards.

4) The applicant shall document that a written request was received by all existing facilities that provide ED service located within 30 minutes travel time of the project site asking the number of treatment stations at each facility, historical ED utilization, and the anticipated impact of the proposed project upon the facility's ED utilization. The request shall include a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility will not experience an adverse impact in utilization from the project. Copies of any correspondence received from the facilities shall be included in the application.

d) Category of Service Modernization

1) If the project involves modernization of an existing FECMS category of service, the applicant shall document that the existing treatment areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care; or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH Inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

e) Staffing Availability − Review Criterion

1) An applicant proposing to establish an FECMS category of service shall document that a sufficient supply of personnel will be available to staff the service. Sufficient staff availability shall be based upon evidence that for the latest 12-month period prior to submission of the application, those hospitals or FECs located in zip code areas that are (in total or in part) within one hour normal travel time of the applicant facility's site have not experienced a staffing shortage with respect to the categories of services proposed by the project.

2) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care workers who are subject to licensing by the Department of Financial and Professional Regulation.

3) An applicant shall document that a written request for such information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed

15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

4) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10% percent, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

(Source: Added at 32 Ill. Reg. 12332, effective July 18, 2008)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Health Facilities Planning Procedural Rules

2) Code Citation: 77 Ill. Adm. Code 1130

3)

Section Numbers:	Adopted Action:
1130.240	Amend
1130.410	Amend

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) Effective Date of Rulemaking: July 18, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Amendments Published in Illinois Register: 31 Ill. Reg. 14198; October 12, 2007

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: No changes were made in response to comments received during the first notice or public comment period. Various typographical, grammatical, and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The rulemaking strikes Section 1130.410(f), which states that a facility does not require a CON permit for a change in a facility's legal name or legal status if an application for exemption is submitted that meets the

requirements of Subparts D and E, and an exemption is issued by HFPB. The new subsection (Section 1130.240(g)) states that a change in a facility's legal name or legal status that does not constitute a change of ownership requires only notification to HFPB within 90 days of occurrence. Therefore, existing Section 1130.410(f) was stricken.

16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

e-mail: dph.rules@illinois.gov

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

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1130
HEALTH FACILITIES PLANNING PROCEDURAL RULES

SUBPART A: AUTHORITY

Section
1130.110 Statutory Authority/Applicability
1130.120 Introduction
1130.130 Purpose
1130.140 Definitions
1130.150 Referenced and Incorporated Materials

SUBPART B: GENERAL REQUIREMENTS

Section
1130.210 Persons and Facilities Subject to the Act
1130.220 Necessary Parties to the Application for Permit or Exemption
1130.230 Fees
1130.240 Reporting and Notification Requirements

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

Section
1130.310 Projects or Transactions Subject to the Act

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS

Section
1130.410 Projects or Transactions Exempt from Permit Requirements

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

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1130.500 General Requirements for Exemptions

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment
1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility
1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds
1130.539 Requirements for Exemptions Involving the Establishment of Positron Emission Tomography (P.E.T.) Service (Repealed)
1130.540 Requirements for Exemptions Involving Discontinuation
1130.541 Requirements for Exemptions for Combined Facility Licensure
1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)
1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility (Repealed)
1130.544 Requirements for Exemption for the Addition of Dialysis Stations
1130.550 Agency Processing of an Application for Exemption
1130.560 State Board Action
1130.570 Validity of an Exemption and Reporting Requirements

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section
1130.610 Duration of the Review Period and Time Frames
1130.620 Technical Assistance, Letter of Intent, Classification, Completeness Review, and Review Procedures
1130.630 Agency Actions During the Review Period
1130.635 Additional Information Provided During the Review Period
1130.640 Extension of the Review Period
1130.650 Modification of an Application
1130.655 HFPB Consideration and Action
1130.660 Approval of an Application
1130.670 Intent to Deny an Application
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SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

Section
1130.710 Validity of Permits
1130.720 Obligation
1130.730 Extension of the Obligation Period
1130.740 Renewal of a Permit
1130.750 Alteration of a Project for which a Permit Has Been Issued
1130.760 Annual Progress Reports
1130.770 Project Completion, Final Realized Costs and Cost Overruns
1130.780 Revocation of a Permit
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and HFPB's Rules

SUBPART H: DECLARATORY RULINGS

Section
1130.810 Declaratory Rulings

SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

Section
1130.910 Applicability
1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit
1130.930 Notice of Public Hearing on Applications for Permit
1130.940 Procedures for Public Hearing on Applications for Permit
1130.950 Written Comments on Applications for Permit
1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition)
1130.970 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition)
1130.980 Procedures Concerning Public Hearing for Certificate of Exemption for Change of Ownership
1130.990 Procedures for Public Hearing and Comment on Proposed Rules
1130.995 Procedures for Public Comment on All Other Matters

SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

Section
1130.1010 The Right to an Administrative Hearing and Applicable Rules

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

1130.1020 Initiation of a Contested Case (Pleadings)
1130.1030 Waiver of Hearing
1130.1040 Parties to Hearings
1130.1050 Appearance – Right to Counsel
1130.1060 Prehearing Conferences
1130.1070 Intervention
1130.1080 Disqualification of Administrative Law Judge
1130.1090 Form of Papers
1130.1100 Service
1130.1110 Conduct of Hearings
1130.1120 Discovery
1130.1130 Motions
1130.1140 Subpoenas
1130.1150 Administrative Law Judge's Report and Final Decision
1130.1160 Proposal for Decision
1130.1170 Final Decision
1130.1180 Records of Proceedings
1130.1190 Miscellaneous
1130.1200 Number of Copies of Pleadings to be Filed
1130.1210 Applicability

1130.APPENDIX A Annual Inflation Adjustments to Review Thresholds (Repealed)

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998; amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 25 Ill. Reg. 10786, effective August 24, 2001; amended at 27 Ill. Reg. 2976, effective February 21,

2003; amended at 30 Ill. Reg. 14852, effective September 1, 2006; amended at 31 Ill. Reg. 15270, effective November 1, 2007; amended at 32 Ill. Reg. 12355, effective July 18, 2008.

SUBPART B: GENERAL REQUIREMENTS

Section 1130.240 Reporting and Notification Requirements

HFPB shall require health care facilities to provide periodic reports, data, and information as needed to carry out the purposes and provisions of the Act [20 ILCS 3960/13]. Information required to be submitted to HFPB includes, but is not limited to, reports on capital expenditures, facility and service utilization data, facility bed capacity information, staffing levels, notices of hospital reductions in services, and any temporary suspension of service.

a) Annual Report of Capital Expenditures
HFPB shall require each health care facility to submit an annual report of capital expenditures in accordance with the provisions of the Act. (See Section 5.3 of the Act.)

b) Health Planning Information
HFPB, in conjunction with IDPH, shall require all health care facilities operating in the State to provide information for the purpose of fulfilling the planning responsibilities specified in the Act. (See Section 13 of the Act.) Such reports may be on an annual or other basis.

c) Notice of Hospital Reduction of 50% or More in Health Care Services
Each hospital is required to notify HFPB, IDPH, and the State Senator and 2 State Representatives representing the legislative district in which the hospital is located of a reduction in services of 50% or more, within 30 days after that reduction [20 ILCS 3960/12.4]. Reporting shall include the identification of the service, reasons for reduction and anticipated duration (permanent or temporary). Reduction of 50% or more is determined by the following:

1) If the reduction is in a bed category of service, reduction is determined by the number of physically available beds as compared to the authorized number of beds stated in the Inventory of Health Care Facilities as updated, or the number of staffed beds reported in the Annual Hospital Questionnaire;

2) If the reduction is in a non-bed category of service (i.e., cardiac surgery, cardiac catheterization, organ transplantation, etc.), reduction is determined when the physical number of procedure rooms, stations or equipment necessary to provide that service is reduced by 50% or more, or the number of clinical staff and/or hours of operation is reduced by 50% or more.

A) If reduction does not reduce the number of procedures by 50% or more, then the notification is only required to HFPB, certifying that the reduction will not reduce the number of procedures performed by 50% or more.

B) If the reduction is temporary for the purpose of maintenance or equipment repair, then notification is required to HFPB only, with a timetable to restore the service.

d) Temporary Suspension of Facility or Category of Service
A facility that has ceased operation or that has ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) may file notice to HFPB of a temporary suspension of service. The notice shall be filed within 30 days after the suspension of the service, and must include a detailed explanation of efforts being made to correct the circumstance and a timetable to reopen the service. Reports documenting the progress of corrections must be filed every 30 days thereafter until services are reopened.

e) Failure to Provide Required Information
Health care facilities and persons that fail to comply with the notice and information requirements of HFPB are subject to the sanctions and penalties provided by the Act. (See 20 ILCS 3960/13 and 14.1.)

f) Changes in a Health Care Facility's Bed Capacity
A health care facility that reduces bed capacity, or adds bed capacity without a permit, as specified by the Act, must notify HFPB and IDPH of that change. Such a change is limited to once every two years and that two year period begins on the date when the additional beds become operational. If the facility has already changed its bed capacity through a permit process, then the facility may not add any more beds in those services affected by the permit for two years from the date

that those beds established by permit become operational without obtaining an additional permit from HFPB.

g) Changes in Name and/or Legal Status
A change in a facility's legal name or a facility's legal status (i.e., a corporate reorganization) that does not constitute a change of ownership, as defined in Section 1130.140, is to be reported to HFPB within 90 days after occurrence.

(Source: Amended at 32 Ill. Reg. 12355, effective July 18, 2008)

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS

Section 1130.410 Projects or Transactions Exempt from Permit Requirement

The following proposed projects and transactions are not subject to the requirements of obtaining a permit, provided that an application for exemption is submitted that meets the requirements of this Subpart and Subpart E and an exemption is issued by HFPB:

a) the acquisition of major medical equipment that will not be owned by, operated on behalf of, or located in a health care facility or be used to provide services to an inpatient of a health care facility.

b) the change of ownership of an existing health care facility.

c) the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:

1) revocation of or denial of license renewal by a State or local regulatory agency;

2) for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;

3) discontinuation action taken by HFPB;

4) the voluntary surrender of a suspended license.

d) the combination of two or more existing health care facilities into a single

licensed health care facility, when:

1) the existing facilities are located on the same site or on sites adjacent to one another;

2) the licensed person for the existing facilities is the same;

3) the combination is for the sole purpose of operating the existing facilities under a single license;

4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.

e) a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the Inventory indicates a need for additional stations, provided that the number of stations to be added does not exceed the planning area's need for additional stations as calculated in the Inventory and also provided that the number of stations, to be added does not exceed the lesser of 10 stations or 50% of the facility's certified station capacity.

~~f) proposed projects or transactions (such as name changes or corporate restructuring) that HFPB has determined pursuant to Section 1130.810 to be ministerial or non-material and do not warrant review.~~

fg) a proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.

(Source: Amended at 32 Ill. Reg. 12355, effective July 18, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

2) Code Citation: 35 Ill. Adm. Code 724

3)

Section Numbers:	Adopted Action:
724.115	Amend
724.116	Amend
724.118	Amend
724.152	Amend
724.156	Amend
724.171	Amend
724.172	Amend
724.173	Amend
724.175	Amend
724.176	Amend
724.197	Amend
724.198	Amend
724.199	Amend
724.200	Amend
724.213	Amend
724.215	Amend
724.216	Amend
724.220	Amend
724.240	Amend
724.243	Amend
724.245	Amend
724.247	Amend
724.274	Amend
724.275	Amend
724.291	Amend
724.292	Amend
724.293	Amend
724.295	Amend
724.296	Amend
724.321	Amend
724.323	Amend
724.351	Amend
724.352	Amend

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

724.353	Amend
724.380	Amend
724.404	Amend
724.414	Amend
724.443	Amend
724.447	Amend
724.652	Amend
724.654	Amend
724.671	Amend
724.673	Amend
724.674	Amend
724.936	Amend
724.961	Amend
724.962	Amend
724.965	Amend
724.1100	Amend
724.1101	Amend

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

5) Effective Date of Amendments: July 14, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendments, a copy of the Board's opinion and order adopted June 5, 2008 in docket R07-5/R07-14 (consolidated), 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: 32 Ill. Reg. 5228; April 11, 2008

10) Has JCAR Issued a Statement of Objection to this Rulemaking? No

11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated March 20, 2008, in docket R07-

5/R07-14 (consolidated). Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace any emergency amendments currently in effect? No

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

15) Summary and Purpose of Amendments: The amendments to Part 724 are a single segment of the consolidated docket R07-5/R07-14 rulemaking that also affects 35 Ill. Adm. Code 703, 720, 721, 722, 723, 725, 726, 727, 728, and 739, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R07-5/R07-14 rulemaking in this *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 June 5, 2008, proposing amendments in consolidated docket R07-5/R07-14, which opinion and order is available from the address below.

Specifically, the amendments to Part 724 implement segments of the federal amendments of March 4, 2005, April 4, 2006, and July 14, 2006. The amendments complete the amendments to the hazardous waste manifest rules, implement the regulatory burden reduction amendments, and include various USEPA corrections.

Tables appear in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 5, 2008 opinion and order in docket R07-5/R07-14 (consolidated).

16) Information and questions regarding these adopted amendments shall be directed to:

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Chicago, IL 60601

312/814-6924

Please reference consolidated docket R07-5/R07-14.

Request copies of the Board's opinion and order of June 5, 2008 at 312-814-3620. Alternatively, you may 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:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

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

SUBPART A: GENERAL PROVISIONS

Section
724.101 Purpose, Scope, and Applicability
724.103 Relationship to Interim Status Standards
724.104 Electronic Reporting

SUBPART B: GENERAL FACILITY STANDARDS

Section
724.110 Applicability
724.111 USEPA Identification Number
724.112 Required Notices
724.113 General Waste Analysis
724.114 Security
724.115 General Inspection Requirements
724.116 Personnel Training
724.117 General Requirements for Ignitable, Reactive, or Incompatible Wastes
724.118 Location Standards
724.119 Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

Section
724.130 Applicability
724.131 Design and Operation of Facility
724.132 Required Equipment
724.133 Testing and Maintenance of Equipment
724.134 Access to Communications or Alarm System
724.135 Required Aisle Space

724.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

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

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section
724.170 Applicability
724.171 Use of Manifest System
724.172 Manifest Discrepancies
724.173 Operating Record
724.174 Availability, Retention, and Disposition of Records
724.175 Annual Facility Activities Report
724.176 Unmanifested Waste Report
724.177 Additional Reports

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

724.201 Corrective Action for Solid Waste Management Units

SUBPART G: CLOSURE AND POST-CLOSURE CARE

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

SUBPART H: FINANCIAL REQUIREMENTS

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

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section
724.270 Applicability
724.271 Condition of Containers
724.272 Compatibility of Waste with Container
724.273 Management of Containers

724.274 Inspections
724.275 Containment
724.276 Special Requirements for Ignitable or Reactive Waste
724.277 Special Requirements for Incompatible Wastes
724.278 Closure
724.279 Air Emission Standards

SUBPART J: TANK SYSTEMS

Section
724.290 Applicability
724.291 Assessment of Existing Tank System Integrity
724.292 Design and Installation of New Tank Systems or Components
724.293 Containment and Detection of Releases
724.294 General Operating Requirements
724.295 Inspections
724.296 Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems
724.297 Closure and Post-Closure Care
724.298 Special Requirements for Ignitable or Reactive Waste
724.299 Special Requirements for Incompatible Wastes
724.300 Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section
724.320 Applicability
724.321 Design and Operating Requirements
724.322 Action Leakage Rate
724.323 Response Actions
724.326 Monitoring and Inspection
724.327 Emergency Repairs; Contingency Plans
724.328 Closure and Post-Closure Care
724.329 Special Requirements for Ignitable or Reactive Waste
724.330 Special Requirements for Incompatible Wastes
724.331 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027
724.332 Air Emission Standards

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART L: WASTE PILES

Section
724.350 Applicability
724.351 Design and Operating Requirements
724.352 Action Leakage Rate
724.353 Response Action Plan
724.354 Monitoring and Inspection
724.356 Special Requirements for Ignitable or Reactive Waste
724.357 Special Requirements for Incompatible Wastes
724.358 Closure and Post-Closure Care
724.359 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

SUBPART M: LAND TREATMENT

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

SUBPART N: LANDFILLS

Section
724.400 Applicability
724.401 Design and Operating Requirements
724.402 Action Leakage Rate
724.403 Monitoring and Inspection
724.404 Response Actions
724.409 Surveying and Recordkeeping

724.410 Closure and Post-Closure Care
724.412 Special Requirements for Ignitable or Reactive Waste
724.413 Special Requirements for Incompatible Wastes
724.414 Special Requirements for Bulk and Containerized Liquids
724.415 Special Requirements for Containers
724.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)
724.417 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

SUBPART O: INCINERATORS

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

SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

Section
724.650 Applicability of Corrective Action Management Unit Regulations
724.651 Grandfathered Corrective Action Management Units
724.652 Corrective Action Management Units
724.653 Temporary Units
724.654 Staging Piles
724.655 Disposal of CAMU-Eligible Wastes in Permitted Hazardous Waste Landfills

SUBPART W: DRIP PADS

Section
724.670 Applicability
724.671 Assessment of Existing Drip Pad Integrity
724.672 Design and Installation of New Drip Pads
724.673 Design and Operating Requirements

724.674 Inspections
724.675 Closure

SUBPART X: MISCELLANEOUS UNITS

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

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section
724.930 Applicability
724.931 Definitions
724.932 Standards: Process Vents
724.933 Standards: Closed-Vent Systems and Control Devices
724.934 Test Methods and Procedures
724.935 Recordkeeping Requirements
724.936 Reporting Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

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

724.964 Recordkeeping Requirements
724.965 Reporting Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

Section
724.980 Applicability
724.981 Definitions
724.982 Standards: General
724.983 Waste Determination Procedures
724.984 Standards: Tanks
724.985 Standards: Surface Impoundments
724.986 Standards: Containers
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SUBPART DD: CONTAINMENT BUILDINGS

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SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

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POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008.

SUBPART B: GENERAL FACILITY STANDARDS

Section 724.115 General Inspection Requirements

a) The owner or operator must conduct inspections often enough to identify

problems in time to correct them before they harm human health or the environment. The owner or operator must inspect the facility for malfunctions and deterioration, operator errors, and discharges that may be causing or may lead to either of the following:

1) Release of hazardous waste constituents to the environment; or

2) A threat to human health.

b) Inspection schedule.

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

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

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

4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or ~~any~~ operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use, except for the owner or operator of a Performance Track member facility, which must inspect at least once each month after approval by the Agency, as described in subsection (b)(5) of this Section. At a minimum, the inspection schedule must include the items and frequencies called for in Sections 724.274, 724.293, 724.295, 724.326, 724.354, 724.378, 724.403, 724.447, 724.702, 724.933, 724.952, 724.953, 724.958, and 724.983 through 724.990, where applicable.

BOARD NOTE: 35 Ill. Adm. Code 703 requires the inspection schedule to be submitted with Part B of the permit application. The Agency must

evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the Agency may modify or amend the schedule as may be necessary.

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

A) It must submit a request for a Class 1 permit modification with prior approval to the Agency. The modification request must identify its facility as a member of the National Environmental Performance Track Program, and it must identify the management units for reduced inspections and the proposed frequency of inspections. The modification request must also specify, in writing, that the reduced inspection frequency will apply for as long as its facility is a Performance Track member facility, and that within seven calendar days of ceasing to be a Performance Track member, the owner or operator will revert to the non-Performance Track inspection frequency, as provided in subsection (b)(4) of this Section. Inspections pursuant to this subsection (b)(5) must be conducted at least once each month.

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

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

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.116 Personnel Training

a) The personnel training program.

1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this Part. The owner or operator must ensure that this program includes all the elements described in the document required under subsection (d)(3) of this Section.

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

2) This program must be directed by a person trained in hazardous waste

management procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including, where applicable:

A) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

B) Key parameters for automatic waste feed cut-off systems;

C) Communications or alarm systems;

D) Response to fires or explosions;

E) Response to groundwater contamination incidents; and

F) Shutdown of operations.

4) For facility employees that have receive emergency response training pursuant to the federal Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.120(p)(8) and (q), the facility is not required to provide separate emergency response training pursuant to this Section, provided that the overall facility OSHA emergency response training meets all the requirements of this Section.

b) Facility personnel must successfully complete the program required in subsection (a) of this Section within six months after the effective date of these regulations or six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of subsection (a) of this Section.

c) Facility personnel must take part in an annual review of the initial training required in subsection (a) of this Section.

d) The owner or operator must maintain the following documents and records at the facility:

1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

2) A written job description for each position listed under subsection (d)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education or other qualifications, and duties of employees assigned to each position;

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.118 Location Standards

a) Seismic considerations.

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

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

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

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

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

BOARD NOTE: Procedures for demonstrating compliance with this standard in Part B of the permit application are specified in 35 Ill. Adm. Code 703.182. Facilities that are located in political jurisdictions other than those listed in appendix VI to 40 CFR 264 (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), incorporated by reference in 35 Ill. Adm. Code 720.111(b), are assumed to be in compliance with this requirement.

b) Floodplains.

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

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

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

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

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

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

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

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

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

B) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section 724.152 Content of Contingency Plan

a) The contingency plan must describe the actions facility personnel must take to comply with Sections 724.151 and 724.156 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

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

BOARD NOTE: The federal One Plan guidance appeared in the Federal Register at 61 Fed. Reg. 28642 (June 5, 1996), and was corrected at 61 Fed. Reg. 31103 (June 19, 1996). USEPA, Office of Solid Waste and Emergency Response, Chemical Emergency Preparedness and Prevention Office, has made these documents available on-line for examination and download at www.epa.gov/emergencies (search for "one plan" or "integrated contingency plan" documents).

c) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services pursuant to Section 724.137.

d) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see Section 724.155), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. For new facilities, this information must be supplied to the Agency at the time of certification, rather than at the time of permit application.

e) The plan must include a list of all emergency equipment at the facility (such as

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.156 Emergency Procedures

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

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

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

b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

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

d) If the emergency coordinator determines that the facility has had a release, fire, or

explosion that could threaten human health or the environment outside the facility, the emergency coordinator must report the findings as follows:

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

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

A) The name and telephone number of the reporter;

B) The name and address of the facility;

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

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

E) The extent of injuries, if any; and

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

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

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

g) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface

water, or any other material that results from a release, fire, or explosion at the facility.

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

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

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

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

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

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

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

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

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

4) The name and quantity of materials involved;

5) The extent of injuries, if any;

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 724.171 Use of Manifest System

a) Receipt of manifested hazardous waste.

~~1) The following requirements apply until September 5, 2006: If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or the owner or operator's agent, must do the following:~~

~~A) It must sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;~~

~~B) It must note any significant discrepancies in the manifest (as defined in Section 724.172(a)) on each copy of the manifest;~~

~~BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the manifest and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.~~

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

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

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

~~2) The following requirements apply effective September 5, 2006:~~

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

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

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

B~~ii~~) It must note any discrepancies (as defined in Section 724.172~~(b)~~) on each copy of the manifest;

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

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

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

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

~~BOARD NOTE: Subsection (a)(1) of this Section corresponds with 40 CFR 264.71(a) (2004), effective until September 5, 2006. Subsection (a)(2) of this Section corresponds with 40 CFR 264.71(a) (2005), effective September 5, 2006.~~

b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information

required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:

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

2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

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

~~4) Forward copies of the manifest.~~

~~A) Until September 5, 2006: The owner or operator must send a copy of the signed and dated manifest to the generator and to the Agency within 30 days after the delivery; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or the owner or operator's agent, must send a copy of the shipping paper signed and dated to the generator; or~~

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

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment). ~~Subsection (b)(4)(A) is derived from 40 CFR~~

~~264.74(b)(4) (2004), effective until September 5, 2006. Subsection (b)(4)(B) is derived from 40 CFR 264.74(b)(4) (2005), effective September 5, 2006.~~

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

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.172 Manifest Discrepancies

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

~~1) Definition of a "manifest discrepancy."~~

~~A) A manifest discrepancy is a difference between the quantity or type of hazardous waste designated on the manifest or shipping paper,~~

~~and the quantity or type of hazardous waste a facility actually receives;~~

~~B) A significant discrepancy in quantity is as follows:~~

~~i) For bulk waste, variations greater than 10 percent in weight; and~~

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

~~C) Significant discrepancies in type are obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.~~

~~2) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.~~

~~b) The following requirements apply effective September 5, 2005:~~

a~~1~~) "Manifest discrepancies" are defined as any one of the following:

1~~A~~) Significant differences (as defined by subsection (b)(2) of this Section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

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

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

b~~2~~) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.

c~~3~~) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

d~~4~~) Rejection of hazardous waste.

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

2~~B~~) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection (e)~~(b)(5)~~ or (f)~~(b)(6)~~ of this Section.

e~~5~~) Except as provided in subsection (e)(7)~~(b)(5)(G)~~ of this Section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the ~~following~~ instructions set forth in subsections (e)(1) through (e)(6) of this Section:

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

2~~B~~) Write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.

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

4~~D~~) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

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

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

7~~G~~) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with subsections (e)(1)~~(b)(5)(A)~~ through (e)(6)~~(b)(5)(F)~~ of this Section.

f~~6~~) Except as provided in subsection (f)(7)~~(b)(6)(G)~~ of this Section, for rejected wastes and residues that must be sent back to the generator, the facility is required

to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the ~~following~~ instructions set forth in subsections (f)(1) through (f)(6) of this Section:

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

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

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

4~~D~~) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

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

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

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

g~~7~~) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.173 Operating Record

a) The owner or operator must keep a written operating record at the facility.

b) The following information must be recorded as it becomes available and maintained in the operating record for three years unless otherwise provided as follows~~until closure of the facility~~:

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

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

BOARD NOTE: See Section 724.219 for related requirements.

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

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

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

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

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

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

9) A certification by the permittee, no less often than annually: that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that the permittee generates, to the degree the permittee determines to be economically practicable, and that the proposed method of treatment, storage, or disposal is that practicable method currently available to the permittee that minimizes the present and future threat to human health and the environment;

10) Records of the quantities ~~(~~and date of placement~~)~~ for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, a petition to 35 Ill. Adm. Code 728.106 or a certification under 35 Ill. Adm. Code 728.108, and the applicable notice required of a generator pursuant to~~under~~ 35 Ill. Adm. Code 728.107(a). This information must be maintained in the operating record until closure of the facility;

11) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;

12) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;

13) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107 or 728.108, whichever is applicable;

14) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107, except for the manifest number, and the certification and demonstration, required under 35 Ill. Adm. Code 728.108, whichever is applicable;

15) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;

16) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;~~ and~~

17) Any records required under Section 724.101(j)(13);~~.~~

18) Monitoring, testing, or analytical data where required by Section 724.447 must be maintained in the operating record for five years; and

19) Certifications, as required by Section 724.296(f), must be maintained in the operating record until closure of the facility.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.175 Annual Facility Activities Report

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

a) The USEPA identification number, name, and address of the facility;

b) The calendar year covered by the report;

c) For off-site facilities, the USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;

d) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by USEPA identification number of each generator;

e) The method of treatment, storage, or disposal for each hazardous waste;

f) This subsection (f) corresponds with 40 CFR 264.75(f), which USEPA has designated as "reserved." This statement maintains structural consistency with the USEPA rules;

g) The most recent closure cost estimate under Section 724.242, and, for disposal facilities, the most recent post-closure cost estimate under Section 724.244;

h) For generators that treat, store or dispose of hazardous waste on-site, a description

of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated;

i) For generators that treat, store or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years, to the extent such information is available for years prior to 1984; and

j) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.176 Unmanifested Waste Report

~~a) The following requirements apply until September 5, 2005: If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in 35 Ill. Adm. Code 723.120(e)(2), and if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code 721.105, then the owner or operator must prepare and submit a single copy of a report to the Agency within 15 days after receiving the waste. The unmanifested waste report must be submitted on EPA form 8700-13B. Such report must be designated "Unmanifested Waste Report" and include the following information:~~

~~1) The USEPA identification number, name, and address of the facility;~~

~~2) The date the facility received the waste;~~

~~3) The USEPA identification number, name, and address of the generator and the transporter, if available;~~

~~4) A description and the quantity of each unmanifested hazardous waste and facility received;~~

~~5) The method of treatment, storage, or disposal for each hazardous waste;~~

~~6) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative; and~~

~~7) A brief explanation of why the waste was unmanifested, if known.~~

a~~b~~) ~~The following requirements apply effective September 5, 2005:~~ If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper, as described by 35 Ill. Adm. Code 723.120(e), and if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code 260 through 265, then the owner or operator must prepare and submit a letter to the Agency within 15 days after receiving the waste. The unmanifested waste report must contain the following information:

1) The USEPA identification number, name, and address of the facility;

2) The date the facility received the waste;

3) The USEPA identification number, name, and address of the generator and the transporter, if available;

4) A description and the quantity of each unmanifested hazardous waste the facility received;

5) The method of treatment, storage, or disposal for each hazardous waste;

6) The certification signed by the owner or operator of the facility or its authorized representative; and

7) A brief explanation of why the waste was unmanifested, if known.

b) This subsection (b) corresponds with 40 CFR 264.76(b), which USEPA has marked "reserved." This statement maintains structural consistency with the corresponding federal regulations.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section 724.197 General Groundwater Monitoring Requirements

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

a) The groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples from the uppermost aquifer that fulfill the following requirements:

1) They represent the quality of background groundwater~~water~~ that has not been affected by leakage from a regulated unit. A determination of background groundwater quality may include sampling of wells that are not hydraulically upgradient from the waste management area where the following is true:

A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or

B) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells;

2) They represent the quality of groundwater passing the point of compliance; and

3) They allow for the detection of contamination when hazardous waste or

hazardous constituents have migrated from the hazardous waste management area to the uppermost aquifer.

b) If a facility contains more than one regulated unit, separate groundwater monitoring systems are not required for each regulated unit provided that provisions for sampling the groundwater in the uppermost aquifer will enable detection and measurement at the compliance point of hazardous constituents from the regulated units that have entered the groundwater in the uppermost aquifer.

c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater.

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

1) Sample collection;

2) Sample preservation and shipment;

3) Analytical procedures; and

4) Chain of custody control.

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

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

g) In detection monitoring or where appropriate in compliance monitoring, data on

each hazardous constituent specified in the permit will be collected from background wells and wells at the compliance points. The number and kinds of samples collected to establish background must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size must be as large as necessary to ensure with reasonable confidence that a contaminant release to groundwater from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit that must be specified in the unit permit upon approval by the Agency. This sampling procedure must fulfill the following requirements:

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

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

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

1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of

contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

4) A control chart approach that gives control limits for each constituent.

5) Another statistical test method submitted by the owner or operator and approved by the Agency.

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

1) The statistical method used to evaluate groundwater monitoring data must be appropriate for the distribution of chemical parameters or hazardous constituents. If the distribution of the chemical parameters or hazardous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

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

3) If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter value must be proposed by the owner or operator and approved by the Agency if

the Agency finds it to adequately protect human health and the environment.

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

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.198 Detection Monitoring Program

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

a) The owner or operator must monitor for indicator parameters (e.g., specific conductance, total organic carbon, or total organic halogen), waste constituents or

reaction products that provide a reliable indication of the presence of hazardous constituents in groundwater. The Agency must specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

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

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

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

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

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

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

d) The Agency must specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or hazardous constituent specified in the permit conditions under subsection (a) of this Section in accordance with Section 724.197(g). ~~A sequence of at least four samples from each well (background and compliance wells) must be collected at least semi-annually during detection monitoring.~~

e) The owner or operator must determine the groundwater flow rate and direction in

the uppermost aquifer at least annually.

f) The owner or operator must determine whether there is statistically significant evidence of contamination for any chemical parameter or hazardous constituent specified in the permit pursuant to subsection (a) of this Section at a frequency specified under subsection (d) of this Section.

1) In determining whether statistically significant evidence of contamination exists, the owner or operator must use the methods specified in the permit under Section 724.197(h). These methods must compare data collected at the compliance points to the background groundwater quality data.

2) The owner or operator must determine whether there is statistically significant evidence of contamination at each monitoring well at the compliance point within a reasonable period of time after completion of sampling. The Agency must specify in the facility permit what period of time is reasonable, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of groundwater samples.

g) If the owner or operator determines pursuant to subsection (f) of this Section that there is statistically significant evidence of contamination for chemical parameters or hazardous constituents specified pursuant to subsection (a) of this Section at any monitoring well at the compliance point, the owner or operator must do the following:

1) Notify the Agency of this finding in writing within seven days. The notification must indicate what chemical parameters or hazardous constituents have shown statistically significant evidence of contamination.

2) Immediately sample the groundwater in all monitoring wells and determine whether constituents in the list of Appendix I of this Part are present, and if so, in what concentration. However, the Agency must allow sampling for a site-specific subset of constituents from the Appendix I list of this Part and for other representative or related waste constituents if it determines that sampling for that site-specific subset of contaminants and other constituents is more economical and equally effective for determining whether groundwater contamination has

occurred.

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

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

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

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

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

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

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

A) All data necessary to justify an alternate concentration limit sought under Section 724.194(b); and

B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of Section 724.200, unless the following is true:

i) All hazardous constituents identified under subsection (g)(2) of this Section are listed in Table 1 of Section 724.194 and their concentrations do not exceed the respective values given in that table; or

ii) The owner or operator has sought an alternate concentration limit under Section 724.194(b) for every hazardous constituent identified under subsection (g)(2) of this Section.

6) If the owner or operator determines, pursuant to subsection (f) of this Section, that there is a statistically significant difference for chemical parameters or hazardous constituents specified pursuant to subsection (a) of this Section at any monitoring well at the compliance point, the owner or operator may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis or statistical evaluation, or natural variation in the groundwater. The owner or operator may make a demonstration under this subsection (g) in addition to, or in lieu of, submitting a permit modification application under subsection (g)(4) of this Section; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in subsection (g)(4) of this Section unless the demonstration made under this subsection (g) successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection (g), the owner or operator must do the following:

A) Notify the Agency in writing, within seven days of determining statistically significant evidence of contamination at the compliance point, that the owner or operator intends to make a demonstration under this subsection (g);

B) Within 90 days, submit a report to the Agency that demonstrates

that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.199 Compliance Monitoring Program

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

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

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

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

3) The compliance point under Section 724.195; and

4) The compliance period under Section 724.196.

b) The owner or operator must install a groundwater monitoring system at the compliance point as specified under Section 724.195. The groundwater

monitoring system must comply with Section 724.197(a)(2), 724.197(b), and 724.197(c).

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

1) The owner or operator must conduct a sampling program for each chemical parameter or hazardous constituent in accordance with Section 724.297(g).

2) The owner or operator must record groundwater analytical data as measured and in a form necessary for the determination of statistical significance under Section 724.197(h) for the compliance period of the facility.

d) The owner or operator must determine whether there is statistically significant evidence of increased contamination for any chemical parameter or hazardous constituent specified in the permit, pursuant to subsection (a) of this Section, at a frequency specified under subsection (f) of this Section.

1) In determining whether statistically significant evidence of increased contamination exists, the owner or operator must use the methods specified in the permit under Section 724.197(h). The methods must compare data collected at the compliance points to a concentration limit developed in accordance with Section 724.194.

2) The owner or operator must determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of the sampling. The Agency must specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of groundwater samples.

e) The owner or operator must determine the groundwater flow rate and direction in the uppermost aquifer at least annually.

f) The Agency must specify the frequencies for collecting samples and conducting

statistical tests to determine statistically significant evidence of increased contamination in accordance with Section 724.197(g). ~~A sequence of at least four samples from each well (background and compliance wells) must be collected at least semi-annually during the compliance period for the facility.~~

g) The owner or operator must annually~~analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix I of this Part at least annually to~~ determine whether additional hazardous constituents from Appendix I of this Part, which could possibly be present but are not on the detection monitoring list in the permit, are actually present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in Section 724.198(f). To accomplish this, the owner or operator must consult with the Agency to determine the following on a case-by-case basis: which sample collection event during the year will involve enhanced sampling; the number of monitoring wells at the compliance point to undergo enhanced sampling; the number of samples to be collected from each of these monitoring wells; and, the specific constituents from Appendix I of this Part for which these samples must be analyzed. If the enhanced sampling event indicates that Appendix I constituents are present in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month or at an alternative site-specific schedule approved by the Agency, and repeat the analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the Agency within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then it must report the concentrations of these additional constituents to the Agency within seven days after completion of the initial analysis, and add them to the monitoring list. ~~If the owner or operator finds constituents of Appendix I of this Part in the groundwater that are not already identified as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix I analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the Agency within seven days after the completion of the second analysis, and add them to the monitoring list. If the owner or operator chooses not to resample, then the owner or operator must report the concentrations of these additional constituents to the Agency within seven days after completion of the initial analysis, and add them to the monitoring list.~~

h) If the owner or operator determines, pursuant to subsection (d) of this Section that any concentration limits under Section 724.194 are being exceeded at any monitoring well at the point of compliance, the owner or operator must do the following:

1) Notify the Agency of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded.

2) Submit to the Agency an application for a permit modification to establish a corrective action program meeting the requirements of Section 724.200 within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the Agency under Section 724.198(g)(5)~~724.198(h)(5)~~. The application must at a minimum include the following information:

A) A detailed description of corrective actions that will achieve compliance with the groundwater protection standard specified in the permit under subsection (a) of this Section; and

B) A plan for a groundwater monitoring program that will demonstrate the effectiveness of the corrective action. Such a groundwater monitoring program may be based on a compliance monitoring program developed to meet the requirements of this Section.

i) If the owner or operator determines, pursuant to subsection (d) of this Section, that the groundwater concentration limits under this Section are being exceeded at any monitoring well at the point of compliance, the owner or operator may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation, or natural variation in groundwater. In making a demonstration under this subsection (i), the owner or operator must do the following:

1) Notify the Agency in writing within seven days that it intends to make a demonstration under this subsection (i);

2) Within 90 days, submit a report to the Agency that demonstrates that a source other than a regulated unit caused the standard to be exceeded or

that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

3) Within 90 days, submit to the Agency an application for a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and

4) Continue to monitor in accord with the compliance monitoring program established under this Section.

j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this Section, the owner or operator must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.200 Corrective Action Program

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

a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the groundwater protection standard pursuant to Section 724.192. The Agency must specify the groundwater protection standard in the facility permit, including the following:

1) A list of the hazardous constituents identified pursuant to Section 724.193;

2) Concentration limits pursuant to Section 724.194 for each of those hazardous constituents;

3) The compliance point pursuant to Section 724.195; and

4) The compliance period pursuant to Section 724.196.

b) The owner or operator must implement a corrective action program that prevents hazardous constituents from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them

in place. The permit will specify the specific measures that must be taken.

c) The owner or operator must begin corrective action within a reasonable time period after the groundwater protection standard is exceeded. The Agency must specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action must begin and such a requirement will operate in lieu of Section 724.199(i)(2).

d) In conjunction with a corrective action program, the owner or operator must establish and implement a groundwater monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program pursuant to Section 724.199 and must be as effective as that program in determining compliance with the groundwater protection standard pursuant to Section 724.192 and in determining the success of a corrective action program pursuant to subsection (e) of this Section where appropriate.

e) In addition to the other requirements of this Section, the owner or operator must conduct a corrective action program to remove or treat in place any hazardous constituents pursuant to Section 724.193 that exceed concentration limits pursuant to Section 724.194 in groundwater, as follows:

1) At the following locations:

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

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

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

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

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

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

g) The owner or operator must report in writing to the Agency on the effectiveness of the corrective action program. The owner or operator must submit these reports annually~~semi-annually~~.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section 724.213 Closure; Time Allowed for Closure

a) All permits must require that, within 90 days after receiving the final volume of

hazardous waste, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) of this Section, at a hazardous waste management unit or facility, the owner or operator treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan, unless the owner or operator makes the following demonstration by way of permit application or modification application. The Agency must approve a longer period if the owner or operator demonstrates that the following is true:

1) Either of the following:

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

B) All of the following is true:

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

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

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

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

b) All permits must require that the owner or operator complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all applicable

requirements in subsections (d) and (e) of this Section, at the hazardous waste management unit or facility, unless the owner or operator makes the following demonstration by way of permit application or modification application. The Agency must approve a longer closure period if the owner or operator demonstrates as follows:

1) Either of the following:

A) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

B) All of the following:

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

ii) There is reasonable likelihood that the owner or operator will recommence operation of the hazardous waste management unit or facility within one year; and

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

2) The owner and operator have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility including compliance with all applicable permit requirements.

c) The demonstration referred to in subsections (a)(1) and (b)(1) of this Section must be made as follows:

1) The demonstration in subsection (a)(1) of this Section must be made at least 30 days prior to the expiration of the 90-day period in subsection (a) of this Section; and

2) The demonstration in subsection (b)(1) of this Section must be made at least 30 days prior to the expiration of the 180-day period in subsection (b) of this Section, unless the owner or operator is otherwise subject to deadlines in subsection (d) of this Section.

d) Continued receipt of non-hazardous waste. The Agency must permit an owner or operator to receive only non-hazardous wastes in a landfill, land treatment unit, or surface impoundment unit after the final receipt of hazardous wastes at that unit if the following is true:

1) The owner or operator requests a permit modification in compliance with all applicable requirements in 35 Ill. Adm. Code 702, 703, and 705, and in the permit modification request demonstrates the following:

A) That the unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes;

B) That there is a reasonable likelihood that the owner or operator or another person will receive non-hazardous wastes in the unit within one year after the final receipt of hazardous wastes;

C) That the non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility pursuant to this Part;

D) That closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and

E) That the owner or operator is operating and will continue to operate in compliance with all applicable permit requirements;

2) The request to modify the permit includes an amended waste analysis plan, groundwater monitoring and response program, human exposure assessment required pursuant to 35 Ill. Adm. Code 703.186, and closure and post-closure plans and updated cost estimates and demonstrations of financial assurance for closure and post-closure care, as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes, and changes in closure activities, including the expected year of closure if applicable pursuant to

Section 724.212(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes;

3) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

4) The request to modify the permit and the demonstrations referred to in subsections (d)(1) and (d)(2) of this Section are submitted to the Agency no later than 120 days prior to the date on which the owner or operator of the facility receives the known final volume of hazardous wastes at the unit or no later than 90 days after the effective date of this Section, whichever is later.

e) Surface impoundments. In addition to the requirements in subsection (d) of this Section, an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements in Section 724.321(c), (d), or (e) must receive non-hazardous wastes only as authorized by an adjusted standard pursuant to this subsection (e).

1) The petition for adjusted standard must include the following:

A) A plan for removing hazardous wastes; and

B) A contingent corrective measures plan.

2) The removal plan must provide for the following:

A) Removing all hazardous liquids; and

B) Removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any; and

C) Removal of hazardous wastes no later than 90 days after the final receipt of hazardous wastes. The Board will allow a longer time, if the owner or operator demonstrates the following:

i) That the removal of hazardous wastes will, of necessity,

take longer than the allotted period to complete; and

ii) That an extension will not pose a threat to human health and the environment.

3) The following requirements apply to the contingent corrective measures plan:

A) It must meet the requirements of a corrective action plan pursuant to Section 724.199, based upon the assumption that a release has been detected from the unit.

B) It may be a portion of a corrective action plan previously submitted pursuant to Section 724.199.

C) It may provide for continued receipt of non-hazardous wastes at the unit following a release only if the owner or operator demonstrates that continued receipt of wastes will not impede corrective action.

D) It must provide for implementation within one year after a release, or within one year after the grant of the adjusted standard, whichever is later.

4) Definition of "release." A release is defined as a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters or constituents specified in the permit, or over the facility's groundwater protection standard at the or over the facility's groundwater protection standard at the point of compliance, if applicable, detected in accordance with the requirements in Subpart F of this Part.

5) In the event of a release, the owner or operator of the unit must do the following:

A) Within 35 days, the owner or operator must file with the Board a petition for adjusted standard. If the Board finds that it is necessary to do so in order to adequately protect human health and the environment, the Board will modify the adjusted standard to

require the owner or operator to fulfill the conditions of subsections (e)(5)(A)(i) and (e)(5) (A)(ii) of this Section. The Board will retain jurisdiction or condition the adjusted standard so as to require the filing of a new petition to address any required closure pursuant to subsection (e)(7) of this Section.

i) Begin to implement that corrective measures plan in less than one year; or

ii) Cease the receipt of wastes until the plan has been implemented.

B) The owner or operator must implement the contingent corrective measures plan.

C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.

6) Annual~~Semi-annual~~ report. During the period of corrective action, the owner or operator must provide annual~~semi-annual~~ reports to the Agency that do the following:

A) They must describe~~Describe~~ the progress of the corrective action program;

B) They must compile~~Compile~~ all groundwater monitoring data; and

C) They must evaluate~~Evaluate~~ the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

7) Required closure. The owner or operator must commence closure of the unit in accordance with the closure plan and the requirements of this Part if the Board terminates the adjusted standard, or if the adjusted standard terminates pursuant to its terms.

A) The Board will terminate the adjusted standard if the owner or operator failed to implement corrective action measures in accordance with the approved contingent corrective measures plan.

B) The Board will terminate the adjusted standard if the owner or operator fails to make substantial progress in implementing the corrective measures plan and achieving the facility's groundwater protection standard, or background levels if the facility has not yet established a groundwater protection standard.

C) The adjusted standard will automatically terminate if the owner or operator fails to implement the removal plan.

D) The adjusted standard will automatically terminate if the owner or operator fails to timely file a required petition for adjusted standard.

8) Adjusted standard procedures. The following procedures must be used in granting, modifying or terminating an adjusted standard pursuant to this subsection (e).

A) Except as otherwise provided, the owner or operator must follow the procedures of Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104 to petition the Board for an adjusted standard.

B) Initial justification. The Board will grant an adjusted standard pursuant to subsection (e)(1) of this Section if the owner or operator demonstrates that the removal plan and contingent corrective measures plans meet the requirements of subsections (e)(2) and (e)(3) of this Section.

C) The Board will include the following conditions in granting an adjusted standard pursuant to subsection (e)(1) of this Section:

i) A plan for removing hazardous wastes.

ii) A requirement that the owner or operator remove hazardous wastes in accordance with the plan.

iii) A contingent corrective measures plan.

iv) A requirement that, in the event of a release, the owner or

operator must do as follows: within 35 days, file with the Board a petition for adjusted standard; implement the corrective measures plan; and, file semi-annual reports with the Agency.

v) A condition that the adjusted standard will terminate if the owner or operator fails to do as follows: implement the removal plan; or timely file a required petition for adjusted standard.

vi) A requirement that, in the event the adjusted standard is terminated, the owner or operator must commence closure of the unit in accordance with the requirements of the closure plan and this Part.

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.215 Certification of Closure

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

Agency releases the owner or operator from the financial assurance requirements for closure under Section 724.243(i).

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.216 Survey Plat

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.220 Certification of Completion of Post-Closure Care

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART H: FINANCIAL REQUIREMENTS

Section 724.240 Applicability

a) The requirements of Sections 724.242, 724.243, and 724.247 through 724.251 apply to owners and operators of all hazardous waste facilities, except as provided

otherwise in this Section or in Section 724.101.

b) The requirements of Sections 724.244 and 724.245 apply only to owners and operators of the following:

1) Disposal facilities;

2) Piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that Sections 724.244 and 724.245 are made applicable to such facilities in Sections 724.328 and 724.358;

3) Tank systems that are required pursuant to Section 724.297 to meet the requirements for landfills; or

4) Containment buildings that are required pursuant to Section 724.1102 to meet the requirements for landfills.

c) The State and the federal government are exempt from the requirements of this Subpart H.

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

1) The Board or Agency has established alternative requirements for the regulated unit established pursuant to Section 724.190(f) or 724.210(c)~~724.210(d)~~; and

2) The Board or Agency determines that it is not necessary to apply the financial assurance requirements of this Subpart H because the alternative financial assurance requirements will adequately protect human health and the environment.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.243 Financial Assurance for Closure

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

a) Closure trust fund.

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

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

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

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

following formula:

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

Where:

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

B) If an owner or operator establishes a trust fund as specified in 35 Ill. Adm. Code 725.243(a) and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current closure cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in subsection (a)(3) 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 35 Ill. Adm. Code 725. The amount of each payment must be determined by the following formula:

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

Where:

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

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

5) If the owner or operator establishes a closure trust fund after having used

one or more alternate mechanisms specified in this Section or in 35 Ill. Adm. Code 725.243, its first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this subsection (a) and 35 Ill. Adm. Code 725.243, as applicable.

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

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

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

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

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

the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, it must withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (i) of this Section, that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

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

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

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

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

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

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

2) The wording of the surety bond must be that specified in Section 724.251.

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

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

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

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

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

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

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

4) The bond must guarantee that the owner or operator will do one of the following:

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

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

C) Provide alternate financial assurance as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or

operator and the Agency of a notice of cancellation of the bond from the surety.

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

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

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

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

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

c) Surety bond guaranteeing performance of closure.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (c) and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency at least 60 days before the date on which hazardous waste is first received for

treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

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

2) The wording of the surety bond must be that specified in Section 724.251.

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

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

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

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

ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current closure cost estimates;

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

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

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

A) Perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

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

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final judicial determination or Board order finding that the owner or operator has failed to perform final closure in accordance with the approved closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure, as guaranteed by the bond, or will deposit the amount of the penal sum into the standby trust fund.

6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate.

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

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

9) The owner or operator may cancel the bond if the Agency has given prior written consent. The Agency must provide such written consent when

either of the following occurs:

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

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

10) The surety must not be liable for deficiencies in the performance of closure by the owner or operator after the Agency releases the owner or operator from the requirements of this Section in accordance with subsection (i) of this Section.

d) Closure letter of credit.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (d) and submitting the letter to the Agency. An owner or operator of a new facility must submit the letter of credit to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2) The wording of the letter of credit must be that specified in Section 724.251.

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

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

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

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

ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current closure cost estimates;

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

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

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

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

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

7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as

specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

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

9) If the owner or operator does not establish alternative financial assurance, as specified in this Section, and obtain written approval of such alternative assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternative financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.

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

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

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

e) Closure insurance.

1) An owner or operator may satisfy the requirements of this Section by obtaining closure insurance that conforms to the requirements of this subsection (e) and submitting a certificate of such insurance to the Agency. An owner or operator of a new facility must submit the certificate of insurance to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance or be eligible to provide insurance as an excess or surplus lines insurer in one or more States.

2) The wording of the certificate of insurance must be that specified in Section 724.251.

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

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

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

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

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

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

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

A) The Agency deems the facility abandoned;

B) The permit is terminated or revoked or a new permit is denied;

C) Closure is ordered by the Board or a U.S. district court or other court of competent jurisdiction;

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

E) The premium due is paid.

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

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

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

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

f) Financial test and corporate guarantee for closure.

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

A) The owner or operator must have the following:

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

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

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

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

B) The owner or operator must have the following:

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

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

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

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

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

3) To demonstrate that it meets this test, the owner or operator must submit

the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251; and

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

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

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

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

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

5) After the initial submission of items specified in subsection (f)(3) 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 (f)(3) of this Section.

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

owner or operator no longer meets the requirements. The owner or operator must provide the alternative financial assurance within 120 days after the end of such fiscal year.

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

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

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

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

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

10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in

subsections (f)(1) through (f)(8) of this Section, must comply with the terms of the corporate guarantee, and the wording of the corporate guarantee must be that specified in Section 724.251. The certified copy of the corporate guarantee must accompany the items sent to the Agency, as specified in subsection (f)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the corporate guarantee must provide as follows:

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

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

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

g) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, and insurance. The

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

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

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

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

1) An increase in, or a refusal to decrease the amount of, a bond, letter of

credit, or insurance;

2) Requiring alternative assurance upon a finding that an owner or operator or parent corporation no longer meets a financial test.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.245 Financial Assurance for Post-Closure Care

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

a) Post-closure trust fund.

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

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

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

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

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

Where:

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

B) If an owner or operator establishes a trust fund, as specified in 35 Ill. Adm. Code 725.245(a), and the value of that trust fund is less than the current post-closure cost estimate when a permit is awarded for the facility, the amount of the current post-closure cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in subsection (a)(3) 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 35 Ill. Adm. Code 725. The amount of each payment must be determined by the following formula:

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

Where:

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

4) The owner or operator may accelerate payments into the trust fund or owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3) of this Section.

5) If the owner or operator establishes a post-closure trust fund after having used one or more alternative mechanisms specified in this Section or in 35 Ill. Adm. Code 725.245, its first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this subsection (a) and 35 Ill. Adm. Code 725.245, as applicable.

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

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

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

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

10) During the period of post-closure care, the Agency must approve a release

of funds if the owner or operator demonstrates to the Agency that the value of the trust fund exceeds the remaining cost of post-closure care.

11) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the trustee to make requirements in those amounts that the Agency specifies in writing if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

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

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

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

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

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

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

basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: http://www.fms.treas.gov/c570/.

2) The wording of the surety bond must be that specified in Section 724.251.

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

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

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

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

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

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

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

4) The bond must guarantee that the owner or operator will do one of the following:

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

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

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

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

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

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

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

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

c) Surety bond guaranteeing performance of post-closure care.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this

subsection (c) and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

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

2) The wording of the surety bond must be that specified in Section 724.251.

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

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

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

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

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

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

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

4) The bond must guarantee that the owner or operator will do either of the following:

A) Perform final post-closure care in accordance with the post-closure plan and other requirements of the permit for the facility; or

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

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other permit requirements, under the terms of the bond the surety will perform post-closure care in accordance with post-closure plan and other permit requirements or will deposit the amount of the penal sum into the standby trust fund.

6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate.

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

8) During the period of post-closure care, the Agency must approve a decrease in the penal sum if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.

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

10) The owner or operator may cancel the bond if the Agency has given prior written consent. The Agency must provide such written consent when either of the following occurs:

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

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

11) The surety will not be liable for deficiencies in the performance of post-closure care by the owner or operator after the Agency releases the owner or operator from the requirements of this Section in accordance with subsection (i) of this Section.

d) Post-closure letter of credit.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (d) and submitting the letter to the Agency. An owner or operator of a new facility must submit the letter of credit to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.

2) The wording of the letter of credit must be that specified in Section 724.251.

3) An owner or operator who uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund.

Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a) of this Section, except as follows:

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

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

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

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

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

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

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

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

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

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

8) During the period of post-closure care, the Agency must approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.

9) Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other permit requirements, the Agency may draw on the letter of credit.

10) If the owner or operator does not establish alternative financial assurance, as specified in this Section, and obtain written approval of such alternative assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternative financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.

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

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

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

e) Post-closure insurance.

1) An owner or operator may satisfy the requirements of this Section by obtaining post-closure insurance that conforms to the requirements of this subsection (e) and submitting a certificate of such insurance to the Agency. An owner or operator of a new facility must submit the certificate of insurance to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance or be eligible to provide insurance as an excess or surplus lines insurer in one or more states.

2) The wording of the certificate of insurance must be that specified in Section 724.251.

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

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

5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures

by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator as specified in subsection (e)(11) of this Section. Failure to pay the premium, without substitution of alternative financial assurance as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the Board may impose pursuant to the Environmental Protection Act [415 ILCS 5]. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

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

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

A) The Agency deems the facility abandoned;

B) The permit is terminated or revoked or a new permit is denied;

C) Closure is ordered by the Board or a U.S. district court or other court of competent jurisdiction;

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

E) The premium due is paid.

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

10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer must thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

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

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

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

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

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

A) The owner or operator must have the following:

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

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

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

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

B) The owner or operator must have the following:

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

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

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

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

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

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

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251;

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

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

i) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived 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.

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

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

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

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

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

9) During the period of post-closure care, the Agency must approve a

decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Agency that the amount of the cost estimate exceeds the remaining cost of post-closure care.

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

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

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

11) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (f)(1) through (f)(9), and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be that specified in Section 724.251. A certified copy of the corporate guarantee must accompany the items sent to the Agency, as specified in subsection (f)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the corporate guarantee must provide as follows:

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

or operator.

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

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

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

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

all of the owner or operator's facilities. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the Agency may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

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

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

1) An increase in or a refusal to decrease the amount of a bond, letter of credit, or insurance;

2) Requiring alternative assurance upon a finding that an owner or operator or parent corporation no longer meets a financial test.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.247 Liability Requirements

a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2

million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this Section:

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (a).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement and of the certificate of insurance must be that specified in Section 724.251. ~~The wording of the certificate of insurance must be that specified in Section 724.251.~~The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

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

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) of this Section.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) of this Section.

5) An owner or operator may meet the requirements of this Section by

obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances pursuant to this subsection (a), the owner or operator must specify at least one such assurance as "primary" coverage and must specify other such assurance as "excess" coverage.

7) An owner or operator must notify the Agency within 30 days whenever any of the following occurs:

A) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (a)(1) through (a)(6) of this Section;

B) A Certification of Valid Claim for bodily injury or property damages caused by sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage pursuant to subsections (a)(1) through (a)(6) of this Section; or

C) A final court order establishing a judgement for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage pursuant to subsections (a)(1) through (a)(6) of this Section.

b) Coverage for nonsudden accidental occurrences. An owner or operator of a

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

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (b).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be that specified in Section 724.251. The wording of the certificate of insurance must be that specified in Section 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

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

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) of this Section.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) of this Section.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances pursuant to this subsection (b), the owner or operator must specify at least one such assurance as "primary" coverage and must specify other such assurance as "excess" coverage.

7) An owner or operator must notify the Agency within 30 days whenever any of the following occurs:

A) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (b)(1) through (b)(6) of this Section;

B) A Certification of Valid Claim for bodily injury or property damages caused by sudden or non-sudden accidental occurrence

arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage pursuant to subsections (b)(1) through (b)(6) of this Section; or

C) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage pursuant to subsections (b)(1) through (b)(6) of this Section.

c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsection (a) or (b) of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted to the Agency as part of the application pursuant to 35 Ill. Adm. Code 703.182 for a facility that does not have a permit, or pursuant to the procedures for permit modification pursuant to 35 Ill. Adm. Code 705.128 for a facility that has a permit. If granted, the modification will take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator who requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b) of this Section. Any request for an adjusted level of required liability coverage for a permitted facility will be treated as a request for a permit modification pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128.

d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the Agency must adjust the level of financial responsibility required pursuant to subsection (a) or (b) of this Section as may be necessary to adequately protect human health and the environment. This adjusted

level must be based on the Agency's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b) of this Section. An owner or operator must furnish to the Agency, within a time specified by the Agency in the request, which must be not be less than 30 days, any information that the Agency requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128.

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

f) Financial test for liability coverage.

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

A) The owner or operator must have the following:

i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test;

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

iii) Assets in the United States amounting to either of the following: at least 90 percent of the total assets; or at least

six times the amount of liability coverage to be demonstrated by this test.

B) The owner or operator must have the following:

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

ii) Tangible net worth of at least $10 million;

iii) Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

iv) Assets in the United States amounting to either of the following: at least 90 percent of the total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

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

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

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by Sections 724.243(f) and 724.245(f) and 35 Ill. Adm. Code 725.243(e) and 725.245(e), and liability coverage, it must submit the letter specified in Section 724.251 to cover both forms of financial responsibility; a separate letter, as specified in Section 724.251, is not required.

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

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

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

5) After the initial submission of items specified in subsection (f)(3) of this Section, the owner of 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 (f)(3) of this Section.

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

7) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B) of this Section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency

must evaluate other qualifications on an individual basis. The owner or operator must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

g) Guarantee for liability coverage.

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

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

B) That the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee must not be terminated unless and until the Agency approves alternative liability coverage

complying with Section 724.247 or 35 Ill. Adm. Code 725.247.

2) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:

A) The guarantee was signed in Illinois by an authorized agent of the guarantor;

B) The guarantee is governed by Illinois law; and

C) The name and address of the guarantor's registered agent for service of process.

3) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].

h) Letter of credit for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (h), and submitting a copy of the letter of credit to the Agency.

2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.

3) The wording of the letter of credit must be that specified in Section 724.251.

4) An owner or operator who uses a letter of credit to satisfy the requirements of this Section may also establish a trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and

examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act [205 ILCS 620].

5) The wording of the standby trust fund must be identical to that specified in Section 724.251(n).

i) Surety bond for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (i) and submitting a copy of the bond to the Agency.

2) The surety company issuing the bond must be licensed by the Illinois Department of Insurance.

3) The wording of the surety bond must be that specified in Section 724.251.

j) Trust fund for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this subsection (j) and submitting a signed, duplicate original of the trust agreement to the Agency.

2) The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act [205 ILCS 620].

3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of establishment of the fund, must either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance as specified in this Section to cover the difference. For purposes of this subsection (j), "the full amount of the liability coverage to be

provided" means the amount of coverage for sudden and non-sudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section 724.274 Inspections

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.275 Containment

a) Container storage areas must have a containment system that is designed and operated in accordance with subsection (b) of this Section, except as otherwise provided by subsection (c) of this Section;

b) A containment system must be designed and operated as follows:

1) A base must underlie~~underlay~~ the containers that is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed.

2) The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

3) The containment system must have sufficient capacity to contain 10 percent of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

4) Run-on into the containment system must be prevented, unless the collection system has sufficient excess capacity in addition to that required in subsection (b)(3) of this Section to contain any run-on that might enter the system; and

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

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

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

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

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

d) Storage areas that store containers holding the wastes listed below that do not

contain free liquids must have a containment system defined by subsection (b) of this Section: F020, F021, F022, F023, F026, and F027.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART J: TANK SYSTEMS

Section 724.291 Assessment of Existing Tank System Integrity

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

b) This assessment must determine whether the tank system is adequately designed and has sufficient structural strength and compatibility with the wastes to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

1) Design standards , if available, according to which the tank and ancillary equipment were constructed;

2) Hazardous characteristics of the wastes that have been and will be handled;

3) Existing corrosion protection measures;

4) Documented age of the tank system, if available (otherwise an estimate of the age); and

5) Results of a leak test, internal inspection, or other tank integrity examination so that the following is true:

A) For non-enterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of

temperature variations, tank end deflection, vapor pockets, and high water table effects, and

B) For other than non-enterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination that is certified by a~~an independent,~~ qualified Professional Engineer,~~registered professional engineer~~ in accordance with 35 Ill. Adm. Code 702.126(d), that address cracks, leaks, corrosion, and erosion.

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

c) Tank systems that store or treat materials that become hazardous wastes subsequent to July 14, 1986, must conduct this assessment within 12 months after the date that the waste becomes a hazardous waste.

d) If, as a result of the assessment conducted in accordance with subsection (a) of this Section, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of Section 724.296.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.292 Design and Installation of New Tank Systems or Components

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

disapprove the acceptability of the tank system design, must include, at a minimum, the following information:

1) Design standards according to which tanks or the ancillary equipment are constructed;

2) Hazardous characteristics of the wastes to be handled;

3) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of the following:

A) Factors affecting the potential for corrosion, including but not limited to the following:

i) Soil moisture content;

ii) Soil pH;

iii) Soil sulfide level;

iv) Soil resistivity;

v) Structure to soil potential;

vi) Influence of nearby underground metal structures (e.g., piping);

vii) Existence of stray electric current;

viii) Existing corrosion-protection measures (e.g., coating, cathodic protection, etc.); and

B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

i) Corrosion-resistant materials of construction, such as special alloys, fiberglass reinforced plastic, etc.;

ii) Corrosion-resistant coating, such as epoxy, fiberglass, etc., with cathodic protection (e.g., impressed current or sacrificial anodes); and

iii) Electrical isolation devices, such as insulating joints, flanges, etc.

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

4) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

5) Design considerations to ensure the following:

A) That tank foundations will maintain the load of a full tank;

B) That tank systems will be anchored to prevent flotation or dislodgment where the tank system is placed in a saturated zone, or is located within a seismic fault zone subject to the standards of Section 724.118(a); and

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

b) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing or placing a new tank system or component in use, an independent qualified installation inspector or a~~an~~

~~independent,~~ qualified Professional Engineer~~registered professional engineer~~, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

1) Weld breaks;

2) Punctures;

3) Scrapes of protective coatings;

4) Cracks;

5) Corrosion;

6) Other structural damage or inadequate construction or installation. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

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

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

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

BOARD NOTE: The piping system installation procedures described in "Installation of Underground Petroleum Storage Systems," API Recommended Practice 1615, or "Chemical Plant and Petroleum Refinery Piping," ASME/ANSI Standard B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, and "Liquid Petroleum Transportation Piping Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols," ASME/ANSI Standard

B31.4-1986, as supplemented by B31.4a-1987, each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used where applicable, as guidelines for proper installation of piping systems.

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.293 Containment and Detection of Releases

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

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

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

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

~~4)~~ ~~For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1987, whichever comes later; and~~

2~~5~~) For a tank system~~systems~~ that stores~~store~~ or treats~~treat~~ materials that become hazardous wastes ~~subsequent to January 12, 1987,~~ within two years after the~~the time intervals required in subsections (a)(1) through (a)(4) of this Section, except that the date that a material becomes a~~ hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later~~must be used in place of January 12, 1987~~.

b) Secondary containment systems must fulfill the following:

1) It must be designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

2) It must be capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

c) To meet the requirements of subsection (b) of this Section, secondary containment systems must, at a minimum, fulfill the following:

1) It must be constructed of or lined with materials that are compatible with the wastes to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic);

2) It must be placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression or uplift;

3) It must be provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary

containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or at the earliest practicable time if the owner or operator demonstrates, by way of permit application, to the Agency that existing detection technologies or site conditions will not allow detection of a release within 24 hours; and

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

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

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

1) A liner (external to the tank);

2) A vault;

3) A double-walled tank; or

4) An equivalent device, as approved by the Board in an adjusted standards proceeding.

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

1) An external liner system must fulfill the following:

A) It must be designed or operated to contain 100 percent of the capacity of the largest tank within its boundary.

B) It must be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

C) It must be free of cracks or gaps.

D) It must be designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tanks (i.e., it is capable of preventing lateral as well as vertical migration of the waste).

2) A vault system must fulfill the following:

A) It must be designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;

B) It must be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

C) It must be constructed with chemical-resistant water stops in place at all joints (if any);

D) It must be provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

E) It must be provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated fulfills the following:

i) It meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or

ii) It meets the definition of reactive waste under 35 Ill. Adm. Code 721.123, and may form an ignitable or explosive vapor; and

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

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

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

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

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

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

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

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

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

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

4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices, etc.) that are visually inspected for leaks on a daily basis.

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

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

A) The nature and quantity of the wastes;

B) The proposed alternative design and operation;

C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and groundwater; and

D) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to groundwater or surface water.

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

A) The potential adverse effects on groundwater, surface water and land quality taking into account, considering the following:

i) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

ii) The hydrogeological characteristics of the facility and surrounding land;

iii) The potential for health risk caused by human exposure to waste constituents;

iv) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

v) The persistence and permanence of the potential adverse effects.

B) The potential adverse effects of a release on groundwater quality, taking into account;

i) The quantity and quality of groundwater and the direction of groundwater flow;

ii) The proximity and withdrawal rates of groundwater users;

iii) The current and future uses of groundwater in the area; and

iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality.

C) The potential adverse effects of a release on surface water quality, taking the following into account:

i) The quantity and quality of groundwater and the direction of groundwater flow;

ii) The patterns of rainfall in the region;

iii) The proximity of the tank system to surface waters;

iv) The current and future uses of surface waters in the area and water quality standards established for those surface waters; and

v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality.

D) The potential adverse effect of a release on the land surrounding the tank system, taking the following into account:

i) The patterns of rainfall in the region; and

ii) The current and future uses of the surrounding land.

3) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1) of this Section, at which a release of hazardous waste has occurred from the primary tank system but which has not migrated beyond the zone of engineering control (as established in the alternative design and operating practices), must do the following:

A) It must comply with the requirements of Section 724.296, except Section 724.296(d); and

B) It must decontaminate or remove contaminated soil to the extent necessary to do the following:

i) Enable the tank system for which the alternative design and operating practices were granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

ii) Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; and

C) If contaminated soil cannot be removed or decontaminated in accordance with subsection (g)(3)(B) of this Section, the owner or operator must comply with the requirement of Section 724.297(b).

4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1) of this Section, at which a release of hazardous waste has occurred from the primary tank system and which has migrated beyond the zone of engineering control (as established in the alternative design and operating practices), must do the following:

A) Comply with the requirements of Section 724.296(a), (b), (c), and (d); and

B) Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 724.297(b); and

C) If repairing, replacing or reinstalling the tank system, provide secondary containment in accordance with the requirements of subsections (a) through (f) of this Section, or make the alternative design and operating practices demonstration to the Board again,

and meet the requirements for new tank systems in Section 724.292 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil is decontaminated or removed and groundwater or surface water has not been contaminated.

h) In order to make an alternative design and operating practices, the owner or operator must follow the following procedures in addition to those specified in Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104:

1) The owner or operator must file a petition for approval of alternative design and operating practices according to the following schedule:

A) For existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with subsection (a) of this Section.

B) For new tank systems, at least 30 days prior to entering into a contract for installation.

2) As part of the petition, the owner or operator must also submit the following to the Board:

A) A description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsection (g)(1) or (g)(2) of this Section; and

B) The portion of the Part B permit application specified in 35 Ill. Adm. Code 703.202.

3) The owner or operator must complete its showing within 180 days after filing its petition for approval of alternative design and operating practices.

4) The Agency must issue or modify the RCRA permit so as to require the permittee to construct and operate the tank system in the manner that was provided in any Board order approving alternative design and operating practices.

i) All tank systems, until such time as secondary containment that meets the requirements of this Section is provided, must comply with the following:

1) For non-enterable underground tanks, a leak test that meets the requirements of Section 724.291(b)(5) or other tank integrity methods, as approved or required by the Agency, must be conducted at least annually.

2) For other than non-enterable underground tanks, the owner or operator must do either of the following:

A) Conduct a leak test, as in subsection (i)(1) of this Section, or

B) Develop a schedule and procedure for an assessment of the overall condition of the tank system by a qualified Professional Engineer~~an independent, qualified registered professional engineer~~. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection and the characteristics of the waste being stored or treated.

3) For ancillary equipment, a leak test or other integrity assessment, as approved by the Agency, must be conducted at least annually.

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

4) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (i)(1) through (i)(3) of this Section.

5) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (i)(1) through (1)(3) of this Section, the owner or operator must comply with the requirements of Section 724.296.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.295 Inspections

a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

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

~~1) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;~~

~~2) Data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design; and~~

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

BOARD NOTE: Section 724.115(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Section 724.296 requires the owner or operator to notify the Agency within 24 hours of confirming a leak. Also federal 40 CFR 302.6 may require the owner or operator to notify the National Response Center of a release.

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

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

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

d) Owners or operators of tank systems that either use leak detection systems to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly those areas described in subsections (c)(1) and (c)(2) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

e) Performance Track member facilities may inspect on a less frequent basis, upon approval by the Director, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track member facility must follow the procedures described in Section 724.115(b)(5).

f) Ancillary equipment that is not provided with secondary containment, as described in Section 724.293(f)(1) through (f)(4), must be inspected at least once each operating day.

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

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

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

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

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

h~~d~~) The owner or operator must document in the operating record of the facility an inspection of those items in subsections (a) through (c) of this Section.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

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

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

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

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

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

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

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

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

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

d) Notifications, reports.

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

2) A leak or spill of hazardous waste is exempted from the requirements of this subsection (d) if the following is true:

A) The spill was less than or equal to a quantity of one pound; and

B) It was immediately contained and cleaned up.

3) Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to the Agency:

A) Likely route of migration of the release;

B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate, etc.);

C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency as soon as they become available.

D) Proximity the downgradient drinking water, surface water, and populated areas; and

E) Description of response actions taken or planned.

e) Provision of secondary containment, repair, or closure.

1) Unless the owner or operator satisfies the requirements of subsections (e)(2) through (e)(4) of this Section, the tank system must be closed in accordance with Section 724.297.

2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART K: SURFACE IMPOUNDMENTS

Section 724.321 Design and Operating Requirements

a) Any surface impoundment that is not covered by subsection (c) of this Section or 35 Ill. Adm. Code 725.321 must have a liner for all portions of the impoundment (except for existing portions of such impoundment). The liner must be designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or groundwater or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or groundwater or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with Section 724.328(a)(1). For impoundments that will be closed in accordance with Section 724.328(a)(2), the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be as follows:

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

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

3) Installed to cover all surrounding earth likely to be in contact with the waste or leachate.

b) The owner or operator will be exempted from the requirements of subsection (a)

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

1) The nature and quantity of the wastes;

2) The proposed alternative design and operation;

3) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and groundwater or surface water; and

4) All other factors that would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.

c) The owner or operator of each new surface impoundment unit on which construction commences after January 29, 1992, each lateral expansion of a surface impoundment unit on which construction commences after July 29, 1992, and each replacement of an existing surface impoundment unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system between such liners. "Construction commences" is as defined in 35 Ill. Adm. Code 720.110, under the definition of "existing facility."

1) Liner requirements.

A) The liner system must include the following:

i) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into such liner during the active life and post-closure care period; and

ii) A composite bottom liner, consisting of at least two

components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least three~~3~~ feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1 x 10^{-7} cm/sec.

B) The liners must comply with subsections (a)(1), (a)(2), and (a)(3) of this Section.

2) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system (LDS). This LDS must be capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a LDS in this subsection (c) are satisfied by installation of a system that is, at a minimum, as follows:

A) It is constructed with a bottom slope of one percent or more;

B) It is constructed of granular drainage materials with a hydraulic conductivity of 1 x 10^{1} cm/sec or more and a thickness of 12 inches (30.5 cm) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of 3 x 10^{4} m^{2}/sec or more;

C) It is constructed of materials that are chemically resistant to the waste managed in the surface impoundment and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes and any waste cover materials or equipment used at the surface impoundment;

D) It is designed and operated to minimize clogging during the active

life and post-closure care period; and

E) It is constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sumps. The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

3) The owner or operator must collect and remove pumpable liquids in the sumps to minimize the head on the bottom liner.

4) The owner or operator of a LDS that is not located completely above the seasonal high water table must demonstrate that the operation of the LDS will not be adversely affected by the presence of groundwater.

d) Subsection (c) of this Section will not apply if the owner or operator demonstrates to the Agency, and the Agency finds for such surface impoundment, that alternative design or operating practices, together with location characteristics, will do the following:

1) It will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the liners and leachate collection and removal system specified in subsection (c) of this Section; and

2) It will allow detection of leaks of hazardous constituents through the top liner at least as effectively.

e) The double liner requirement set forth in subsection (c) of this Section may be waived by the Agency for any monofill, if the following is true of the unit:

1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents that would render the wastes hazardous for reasons other than the toxicity characteristic in 35 Ill. Adm. Code 721.124; and

2) Design and location.

A) Liner, location, and groundwater monitoring.

i) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of this subsection (e), the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, groundwater or surface water at any time during the active life of the facility. In the case of any surface impoundment that has been exempted from the requirements of subsection (c) of this Section on the basis of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of such impoundment, the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment will comply with appropriate post-closure requirements, including but not limited to groundwater monitoring and corrective action;

ii) The monofill is located more than one-quarter mile from an "underground source of drinking water" (as that term is defined in 35 Ill. Adm. Code 702.110); and

iii) The monofill is in compliance with generally applicable groundwater monitoring requirements for facilities with permits; or

B) The owner or operator demonstrates to the Board that the monofill is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

f) The owner or operator of any replacement surface impoundment unit is exempt from subsection (c) of this Section if the following is true of the unit:

1) The existing unit was constructed in compliance with the design standards of 35 Ill. Adm. Code 724.321(c), (d), and (e); and

BOARD NOTE: The cited subsections implemented the design standards of sections 3004 (o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act (42 USC 6901 et seq.).

2) There is no reason to believe that the liner is not functioning as designed.

g) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

h) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

i) The Agency must specify in the permit all design and operating practices that are necessary to ensure that the requirements of this Section are satisfied.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.323 Response Actions

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

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

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

days after the determination;

2) Submit a preliminary written assessment to the Agency within 14 days after the determination, as to the amount of liquids, likely sources of liquids, possible location, size and cause of any leaks, and short-term actions taken and planned;

3) Determine to the extent practicable the location, size, and cause of any leak;

4) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs or controls, and whether or not the unit should be closed;

5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3), (b)(4), and (b)(5) of this Section, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.

c) To make the leak or remediation determinations in subsections (b)(3), (b)(4), and (b)(5) of this Section, the owner or operator must do either of the following:

1) Perform the following assessments:

A) Assess the source of liquids and amounts of liquids by source;

B) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART L: WASTE PILES

Section 724.351 Design and Operating Requirements

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

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

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

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

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

2) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated, to collect and remove leachate from the pile. The Agency must specify design and operating conditions in the permit to ensure that the leachate depth over the liner

does not exceed 30 cm (one foot). The leachate collection and removal system must be as follows:

A) Constructed of materials that are as follows:

i) Chemically resistant to the waste managed in the pile and the leachate expected to be generated; and

ii) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials and by any equipment used at the pile; and

B) Designed and operated to function without clogging through the scheduled closure of the waste pile.

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

1) The nature and quantity of the wastes;

2) The proposed alternative design and operation;

3) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and groundwater or surface water; and

4) All other factors that influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.

c) The owner or operator of each new waste pile unit ~~on which construction commenced after January 29, 1992~~, each lateral expansion of a waste pile unit ~~on which construction commenced after July 29, 1992~~, and each replacement of an

existing waste pile unit~~ that was to commence reuse after July 29, 1992,~~ must install two or more liners and a leachate collection and removal system above and between such liners.~~ "Construction commenced" is as defined in Section 720.110 under "existing facility."~~

1) Liners.

A) The liner system must include the following:

i) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into such liner during the active life and post-closure care period; and

ii) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than $1X10^{-7}$ cm/sec.

B) The liners must comply with subsections (a)(1)(A), (a)(1)(B), and (a)(1)(C) of this Section.

2) The leachate collection and removal system immediately above the top liner must be designed, constructed, operated, and maintained to collect and remove leachate from the waste pile during the active life and post-closure care period. The Agency must specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must comply with subsections (c)(3)(C) and (c)(3)(D) of this Section.

3) The leachate collection and removal system between the liners, and

immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system (LDS). This LDS must be capable of detecting, collecting and removing leaks of hazardous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a LDS in this subsection (c) are satisfied by installation of a system that is, at a minimum, as follows:

A) Constructed with a bottom slope of one percent or more;

B) Constructed of granular drainage materials with a hydraulic conductivity of $1x10^{-2}$ cm/sec or more and a thickness of 12 inches (30.5 cm) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of $3X10^{-5}$ m^2/sec or more;

C) Constructed of materials that are chemically resistant to the waste managed in the waste pile and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and equipment used at the waste pile;

D) Designed and operated to minimize clogging during the active life and post-closure care period; and

E) Constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sumps. The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

4) The owner or operator must collect and remove pumpable liquids in the LDS sumps to minimize the head on the bottom liner.

5) The owner or operator of a LDS that is not located completely above the seasonal high water table must demonstrate that the operation of the LDS will not be adversely affected by the presence of groundwater.

d) The Agency must approve alternative design or operating practices to those specified in subsection (c) of this Section if the owner or operator demonstrates to the Agency, by way of permit or permit modification application, that such design or operating practices, together with location characteristics, will do the following:

1) Will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal systems specified in subsection (c) of this Section; and

2) Will allow detection of leaks of hazardous constituents through the top liner at least as effectively.

e) Subsection (c) of this Section does not apply to monofills that are granted a waiver by the Agency in accordance with Section 724.321(e).

f) The owner or operator of any replacement waste pile unit is exempt from subsection (c) of this Section if the following are true:

1) The existing unit was constructed in compliance with the design standards of section 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act (42 USC 6901 et seq.); and

BOARD NOTE: The cited provisions required the installation of two or more liners and a leachate collection system above (in the case of a landfill) and between such liners, including a top liner designed, operated and constructed of materials to prevent the migration of any constituent into such liner during the period the facility remained in operation (including any post-closure monitoring period), and a lower liner to prevent the migration of any constituent through the liner during such period. The lower liner was deemed to satisfy the requirement if it was constructed of at least a 3-foot thick layer of recompacted clay or other natural material with a permeability of no more than 1×10^{-7} cm/sec.

2) There is no reason to believe that the liner is not functioning as designed.

g) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile

during peak discharge from at least a 25-year storm.

h) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

i) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

j) If the pile contains any particulate matter that may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.

k) The Agency must specify in the permit all design and operating practices that are necessary to ensure that the requirements of this Section are satisfied.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.352 Action Leakage Rate

a) The Agency must approve an action leakage rate for waste pile~~surface impoundment~~ units subject to Section 724.351(c) or (d). The action leakage rate is the maximum design flow rate that the LDS can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material, etc.), construction, operation, and location of the LDS; waste and leachate characteristics; likelihood and amounts of other sources of liquids in the LDS; and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

b) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under Section 724.354(c) to an average daily flow rate (gallons per acre per day) for each sump. The average daily flow rate for each sump must be calculated weekly during the active life and closure period.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.353 Response Action Plan

a) The owner or operator of waste pile units subject to Section 724.351(c) or (d) must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) of this Section.

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

1) Notify the Agency in writing of the exceedance~~exceedence~~ within seven days after the determination;

2) Submit a preliminary written assessment to the Agency within 14 days after the determination, as to the amount of liquids, likely sources of liquids, possible location, size and cause of any leaks, and short-term actions taken and planned;

3) Determine to the extent practicable the location, size, and cause of any leak;

4) Determine whether waste receipt should cease or be curtailed; whether any waste should be removed from the unit for inspection, repairs, or controls; and whether the unit should be closed;

5) Determine any other short-term and long-term actions to be taken to mitigate or stop any leaks; and

6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3), (b)(4), and (b)(5) of this Section, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.

c) To make the leak or remediation determinations in subsections (b)(3), (b)(4), and (b)(5) of this Section, the owner or operator must do either of the following:

1) Perform the following assessments:

A) Assess the source of liquids and amounts of liquids by source;

B) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART M: LAND TREATMENT

Section 724.380 Closure and Post-Closure Care

a) During the closure period the owner or operator must do the following:

1) It must continue~~Continue~~ all operations (including pH control) necessary to maximize degradation, transformation or immobilization of hazardous constituents within the treatment zone as required under Section 724.373(a), except to the extent such measures are inconsistent with subsection (a)(8) of this Section;

2) It must continue~~Continue~~ all operations in the treatment zone to minimize run-off of hazardous constituents, as required under Section 724.373(b);

3) It must maintain~~Maintain~~ the run-on control system required under Section 724.373(c);

4) It must maintain~~Maintain~~ the run-off management system required under Section 724.373(d);

5) It must control~~Control~~ wind dispersal of hazardous waste if required under Section 724.373(f);

6) It must continue~~Continue~~ to comply with any prohibitions or conditions concerning growth of food-chain crops under Section 724.376;

7) It must continue~~Continue~~ unsaturated zone monitoring in compliance with Section 724.378, except that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone; and

8) It must establish~~Establish~~ a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of hazardous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

b) For the purpose of complying with Section 724.215, when closure is completed the owner or operator may submit to the Agency certification by an independent qualified soil scientist, in lieu of a qualified Professional Engineer~~an independent registered professional engineer~~, that the facility has been closed in accordance with the specifications in the approved closure plan.

c) During the post-closure care period the owner or operator must do the following:

1) It must continue~~Continue~~ all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of hazardous constituents in the treatment zone to the extent that such measures are consistent with other post-closure care activities;

2) It must maintain~~Maintain~~ a vegetative cover over closed portions of the facility;

3) It must maintain~~Maintain~~ the run-on control system required under Section 724.373(c);

4) It must maintain~~Maintain~~ the run-off management system required under Section 724.373(d);

5) It must control~~Control~~ wind dispersal of hazardous waste if required under Section 724.373(f);

6) It must continue~~Continue~~ to comply with any prohibitions or conditions concerning growth of food-chain crops under Section 724.376; and

7) It must continue~~Continue~~ unsaturated zone monitoring in compliance with Section 724.378, except that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone.

d) The owner or operator is not subject to regulation under subsections (a)(8) and (c) of this Section if the Agency finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in subsection (d)(3) of this Section. The owner or operator may submit such a demonstration to the Agency at any time during the closure or post-closure care periods. For the purposes of this subsection (d), the owner or operator must do the following:

1) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all hazardous constituents specified in the facility permit under Section 724.371.

A) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone.

B) The owner or operator must express background values and values for hazardous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under subsection (d)(3) of this Section.

2) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at appropriate locations and depths to yield samples that represent the chemical make-up of soil that has not been

affected by leakage from the treatment zone and the soil within the treatment zone, respectively.

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

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART N: LANDFILLS

Section 724.404 Response Actions

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

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

1) Notify the Agency in writing of the exceedance~~exceedence~~ within seven days of the determination;

2) Submit a preliminary written assessment to the Agency within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

3) Determine to the extent practicable the location, size, and cause of any leak;

4) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether the unit should be closed;

5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3), (b)(4), and (b)(5) of this Section , the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.

c) To make the leak or remediation determinations in subsections (b)(3), (b)(4), and (b)(5) of this Section, the owner or operator must do either of the following:

1) Perform the following assessments:

A) Assess the source of liquids and amounts of liquids by source;

B) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks and the hazard and mobility of the liquid; and

C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.414 Special Requirements for Bulk and Containerized Liquids

~~a) This subsection (a) corresponds with 40 CFR 264.314(a), which pertains to pre May 8, 1985 actions, a date long since passed. This statement maintains structural consistency with USEPA rules.~~

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

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

c~~d~~) Containers holding free liquids must not be placed in a landfill unless the following is true:

1) All free-standing liquid fulfills one of the following:

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

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

C) It has been otherwise eliminated; or

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

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

4) The container is a lab pack as defined in Section 724.416 and is disposed

of in accordance with Section 724.416.

de) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are the following: materials listed or described in subsection (e)(1) of this Section; materials that pass one of the tests in subsection (e)(2) of this Section; or materials that are determined by the Board to be nonbiodegradable through the adjusted standard procedure of 35 Ill. Adm. Code 104.

1) Nonbiodegradable sorbents are the following:

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

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

C) Mixtures of these nonbiodegradable materials.

2) Tests for nonbiodegradable sorbents are the following:

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

B) The sorbent material is determined to be nonbiodegradable under

ASTM Method G22-76 (1984b) (Standard Practice for Determining Resistance of Plastics to Bacteria), incorporated by reference in 35 Ill. Adm. Code 720.111(a); or

C) The sorbent material is determined to be non-biodegradable under OECD Guideline for Testing of Chemicals, Method 301B (CO_2 Evolution (Modified Sturm Test)), incorporated by reference in 35 Ill. Adm. Code 720.111(a).

e~~f~~) The placement of any liquid that is not a hazardous waste in a hazardous waste landfill is prohibited (35 Ill. Adm. Code 729.311), unless the Board finds that the owner or operator has demonstrated the following in a petition for an adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104:

1) The only reasonably available alternative to the placement in a hazardous waste landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, that contains or which may reasonably be anticipated to contain hazardous waste; and

2) Placement in the hazardous waste landfill will not present a risk of contamination of any "underground source of drinking water" (as that term is defined in 35 Ill. Adm. Code 702.110).

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART O: INCINERATORS

Section 724.443 Performance Standards

An incinerator burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under Section 724.445, it will meet the following performance standards:

a) Destruction and removal efficiency.

1) Except as provided in subsection (a)(2) of this Section, an incinerator burning hazardous waste must achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous

constituent (POHC) designated (under Section 724.442) in its permit for each waste feed. DRE is determined for each POHC from the following equation:

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

Where:

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

2) An incinerator burning hazardous wastes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic hazardous constituent (POHC) designated (under Section 724.442) in its permit. This performance must be demonstrated on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in subsection (a)(1) of this Section.~~ In addition, the owner or operator of the incinerator must notify the Agency of its intent to incinerate hazardous wastes F020, F021, F022, F023, F026, or F027.~~

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

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

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

1) Where:

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

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

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.447 Monitoring and Inspections

a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating hazardous waste:

1) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis.

2) Carbon monoxide must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere.

3) Upon request by the Agency, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating

requirements established in the permit achieved the performance standard of Section 724.443.

b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be subjected to thorough visual inspection, at least daily, for leaks, spills, fugitive emissions and signs of tampering.

c) The emergency waste feed cutoff system and associated alarms must be tested at least weekly to verify operability, unless the applicant demonstrates to the Agency that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, operational testing must be conducted at least monthly.

d) This monitoring and inspection data must be recorded and the records must be placed in the operating record~~log~~ required by Section 724.173 and maintained in the operating record for five years.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

Section 724.652 Corrective Action Management Units

a) To implement remedies pursuant to Section 724.201 or RCRA section 3008(h), or to implement remedies at a permitted facility that is not subject to Section 724.201, the Agency may designate an area at the facility as a corrective action management unit pursuant to the requirements in this Section. "Corrective action management unit" or "CAMU" means an area within a facility that is used only for managing CAMU-eligible wastes for implementing corrective action or cleanup at that facility. A CAMU must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

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

A) All solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, that are managed for implementing cleanup. As-generated wastes (either hazardous or non-hazardous) from ongoing industrial

operations at a site are not CAMU-eligible wastes.

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

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

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

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

2) The Agency must prohibit the placement of waste in a CAMU where the Agency determines that the wastes have not been managed in compliance with applicable land disposal treatment standards of 35 Ill. Adm. Code 728, applicable unit design requirements of this Part or 35 Ill. Adm. Code 725, or other applicable requirements of this Subtitle G, and that the non-compliance likely contributed to the release of the waste.

3) Prohibition against placing liquids in a CAMU.

A) The placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not sorbents have been added) in any CAMU is prohibited except where placement of such wastes facilitates the remedy selected for the waste.

B) The requirements in Section 724.414(d) for placement of containers holding free liquids in landfills apply to placement in a

CAMU, except where placement facilitates the remedy selected for the waste.

C) The placement of any liquid that is not a hazardous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to Section 724.414(f).

D) The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with Section 724.414(c). Sorbents used to treat free liquids in a CAMU must meet the requirements of Section 724.414(e).

4) Placement of CAMU-eligible wastes into or within a CAMU does not constitute land disposal of hazardous waste.

5) Consolidation or placement of CAMU-eligible wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

b) Establishing a CAMU.

1) The Agency must designate a regulated unit (as defined in Section 724.190(a)(2)) as a CAMU or must incorporate a regulated unit into a CAMU, if it determines that the following is true of a regulated unit:

A) The regulated unit is closed or closing, meaning it has begun the closure process pursuant to Section 724.213 or 35 Ill. Adm. Code 725.213; and

B) Inclusion of the regulated unit will enhance implementation of effective, protective, and reliable remedial actions for the facility.

2) The Subpart F, G, and H requirements and the unit-specific requirements of this Part or 35 Ill. Adm. Code 265 that applied to the regulated unit will continue to apply to that portion of the CAMU after incorporation into the CAMU.

c) The Agency must designate a CAMU that will be used for storage or treatment

only in accordance with subsection (f) of this Section. The Agency must designate any other CAMU in accordance with the following requirements:

1) The CAMU must facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

2) Waste management activities associated with the CAMU must not create unacceptable risks to humans or to the environment resulting from exposure to hazardous wastes or hazardous constituents;

3) The CAMU must include uncontaminated areas of the facility, only if including such areas for the purpose of managing CAMU-eligible waste is more protective than management of such wastes at contaminated areas of the facility;

4) Areas within the CAMU, where wastes remain in place after closure of the CAMU, must be managed and contained so as to minimize future releases, to the extent practicable;

5) The CAMU must expedite the timing of remedial activity implementation, when appropriate and practicable;

6) The CAMU must enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

7) The CAMU must, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

d) The owner or operator must provide sufficient information to enable the Agency to designate a CAMU in accordance with the criteria in this Section. This must include, unless not reasonably available, information on the following:

1) The origin of the waste and how it was subsequently managed (including a description of the timing and circumstances surrounding the disposal or release);

2) Whether the waste was listed or identified as hazardous at the time of disposal or release; and

3) Whether the disposal or release of the waste occurred before or after the land disposal requirements of 35 Ill. Adm. Code 728 were in effect for the waste listing or characteristic.

e) The Agency must specify, in the permit or order, requirements for the CAMU to include the following:

1) The areal configuration of the CAMU.

2) Except as provided in subsection (g) of this Section, requirements for CAMU-eligible waste management to include the specification of applicable design, operation, treatment, and closure requirements.

3) Minimum Design Requirements: a CAMU, except as provided in subsection (f) of this Section, into which wastes are placed must be designed in accordance with the following:

A) Unless the Agency approves alternative requirements pursuant to subsection (e)(3)(B) of this Section, a CAMU that consists of new, replacement, or laterally expanded units must include a composite liner and a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate over the liner. For purposes of this Section, "composite liner" means a system consisting of two components; the upper component must consist of a minimum 30-mil flexible membrane liner (FML), and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than $1x10^{-7}$ cm/sec. FML components consisting of high density polyethylene (HDPE) must be at least 60 mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component;

B) Alternative Requirements. The Agency must approve alternative requirements if it determines that either of the following is true:

i) The Agency determines that alternative design and

operating practices, together with location characteristics, will prevent the migration of any hazardous constituents into the groundwater or surface water at least as effectively as the liner and leachate collection systems in subsection (e)(3)(A) of this Section; or

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

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

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

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

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

ii) The Agency must also designate constituents as principal hazardous constituents, where appropriate, when risks to human health and the environment posed by the potential migration of constituents in wastes to groundwater are substantially higher than cleanup levels or goals at the site.

When making such a designation, the Agency must consider such factors as constituent concentrations, and fate and transport characteristics under site conditions.

iii) The Agency must also designate other constituents as principal hazardous constituents that the Agency determines pose a risk to human health and the environment substantially higher than that posed by the cleanup levels or goals at the site.

B) In determining which constituents are "principal hazardous constituents," the Agency must consider all constituents that, absent this Section, would be subject to the treatment requirements in 35 Ill. Adm. Code 728.

C) Waste that the Agency determines contains principal hazardous constituents must meet treatment standards determined in accordance with subsection (e)(4)(D) or (e)(4)(E) of this Section.

D) Treatment standards for wastes placed in a CAMU.

i) For non-metals, treatment must achieve 90 percent reduction in total principal hazardous constituent concentrations, except as provided by subsection (e)(4)(D)(iii) of this Section.

ii) For metals, treatment must achieve 90 percent reduction in principal hazardous constituent concentrations as measured in leachate from the treated waste or media (tested according to the TCLP) or 90 percent reduction in total constituent concentrations (when a metal removal treatment technology is used), except as provided by subsection (e)(4)(D)(iii) of this Section.

iii) When treatment of any principal hazardous constituent to a 90 percent reduction standard would result in a concentration less than 10 times the Universal Treatment Standard for that constituent, treatment to achieve constituent concentrations less than 10 times the Universal

Treatment Standard is not required. Universal Treatment Standards are identified in Table U to 35 Ill. Adm. Code 728.

iv) For waste exhibiting the hazardous characteristic of ignitability, corrosivity, or reactivity, the waste must also be treated to eliminate these characteristics.

v) For debris, the debris must be treated in accordance with 35 Ill. Adm. Code ~~Section~~ 728.145, or by methods or to levels established pursuant to subsections (e)(4)(D)(i) through (e)(4)(D)(iv) or subsection (e)(4)(E) of this Section, whichever the Agency determines is appropriate.

vi) Alternatives to TCLP. For metal bearing wastes for which metals removal treatment is not used, the Agency must specify a leaching test other than Method 1311 (Toxicity Characteristic Leaching Procedure), in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a) to measure treatment effectiveness, provided the Agency determines that an alternative leach testing protocol is appropriate for use, and that the alternative more accurately reflects conditions at the site that affect leaching.

E) Adjusted standards. The Board will grant an adjusted standard pursuant to Section 28.1 of the Act to adjust the treatment level or method in subsection (e)(4)(D) of this Section to a higher or lower level, based on one or more of the following factors, as appropriate, if the owner or operator demonstrates that the adjusted level or method would adequately protect human health and the environment, based on consideration of the following:

i) The technical impracticability of treatment to the levels or by the methods in subsection (e)(4)(D) of this Section;

ii) The levels or methods in subsection (e)(4)(D) of this Section would result in concentrations of principal

hazardous constituents (PHCs) that are significantly above or below cleanup standards applicable to the site (established either site-specifically, or promulgated pursuant to State or federal law);

iii) The views of the affected local community on the treatment levels or methods in subsection (e)(4)(D) of this Section, as applied at the site, and, for treatment levels, the treatment methods necessary to achieve these levels;

iv) The short-term risks presented by the on-site treatment method necessary to achieve the levels or treatment methods in subsection (e)(4)(D) of this Section;

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

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

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

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

H) Principal hazardous constituents that the Agency must designate

are the following:

i) Carcinogens that pose a potential direct risk from ingestion or inhalation at the site at or above 10^{-3}; and

ii) Non-carcinogens that pose a potential direct risk from ingestion or inhalation at the site an order of magnitude or greater over their reference dose.

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

i) Where the treatment standards in subsection (e)(4)(D) of this Section are substantially met and the principal hazardous constituents in the waste or residuals are of very low mobility;

ii) Where cost-effective treatment has been used and the CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at Section 724.401(c) and (d);

iii) Where, after review of appropriate treatment technologies, the Board determines that cost-effective treatment is not reasonably available, and the CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at Section 724.401(c) and (d);

iv) Where cost-effective treatment has been used and the principal hazardous constituents in the treated wastes are of very low mobility; or

v) Where, after review of appropriate treatment technologies, the Board determines that cost-effective treatment is not reasonably available, the principal hazardous constituents in the wastes are of very low mobility, and either the CAMU meets or exceeds the liner standards for new, replacement, or a laterally expanded CAMU in subsections

(e)(3)(A) and (e)(3)(B) of this Section or the CAMU provides substantially equivalent or greater protection.

5) Except as provided in subsection (f) of this Section, requirements for groundwater monitoring and corrective action that are sufficient to do the following:

A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of hazardous constituents in groundwater from sources located within the CAMU;

B) Detect and subsequently characterize releases of hazardous constituents to groundwater that may occur from areas of the CAMU in which wastes will remain in place after closure of the CAMU; and

C) Require notification to the Agency and corrective action as necessary to adequately protect human health and the environment for releases to groundwater from the CAMU.

6) Except as provided in subsection (f) of this Section, closure and post-closure requirements, as follows:

A) Closure of corrective action management units must do the following:

i) It must minimize~~Minimize~~ the need for further maintenance; and

ii) It must control~~Control~~, minimize, or eliminate, to the extent necessary to adequately protect human health and the environment, for areas where wastes remain in place, post-closure escape of hazardous wastes, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground, to surface waters, or to the atmosphere.

B) Requirements for closure of a CAMU must include the following,

as appropriate and as deemed necessary by the Agency for a given CAMU:

i) Requirements for excavation, removal, treatment or containment of wastes; and

ii) Requirements for removal and decontamination of equipment, devices, and structures used in CAMU-eligible waste management activities within the CAMU.

C) In establishing specific closure requirements for a CAMU pursuant to this subsection (e), the Agency must consider the following factors:

i) CAMU characteristics;

ii) Volume of wastes that remain in place after closure;

iii) Potential for releases from the CAMU;

iv) Physical and chemical characteristics of the waste;

v) Hydrogeological~~Hydrological~~ and other relevant environmental conditions at the facility that may influence the migration of any potential or actual releases; and

vi) Potential for exposure of humans and environmental receptors if releases were to occur from the CAMU.

D) Cap requirements:

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

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

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

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

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

i) Provide long-term minimization of migration of liquids through the closed unit;

ii) Function with minimum maintenance;

iii) Promote drainage and minimize erosion or abrasion of the cover;

iv) Accommodate settling and subsidence so that the cover's integrity is maintained; and

v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

f) A CAMU used for storage or treatment only is a CAMU in which wastes will not remain after closure. Such a CAMU must be designated in accordance with all of the requirements of this Section, except as follows:

1) A CAMU that is used for storage or treatment only and that operates in accordance with the time limits established in the staging pile regulations at Section 724.654(d)(1)(C), (h), and (i) is subject to the requirements for staging piles at Section 724.654(d)(1)(A) and (d)(1)(B), (d)(2), (e), (f), (j), and (k) in lieu of the performance standards and requirements for a CAMU in subsections (c) and (e)(3) through (e)(6) of this Section.

2) A CAMU that is used for storage or treatment only and that does not operate in accordance with the time limits established in the staging pile regulations at Section 724.654(d)(1)(C), (h), and (i):

A) The owner or operator must operate in accordance with a time limit, established by the Agency, that is no longer than necessary to achieve a timely remedy selected for the waste and

B) The CAMU is subject to the requirements for staging piles at Section 724.654(d)(1)(A) and (d)(1)(B), (d)(2), (e), (f), (j), and (k) in lieu of the performance standards and requirements for a CAMU in subsections (c), (e)(4), and (6) of this Section.

g) A CAMU into which wastes are placed where all wastes have constituent levels at or below remedial levels or goals applicable to the site do not have to comply with the requirements for liners at subsection (e)(3)(A) of this Section, caps at subsection (e)(6)(D) of this Section, groundwater monitoring requirements at subsection (e)(5) of this Section or, for treatment or storage-only a CAMU, the design standards at subsection (f) of this Section.

h) The Agency must provide public notice and a reasonable opportunity for public comment before designating a CAMU. Such notice must include the rationale for any proposed adjustments pursuant to subsection (e)(4)(E) of this Section to the treatment standards in subsection (e)(4)(D) of this Section.

i) Notwithstanding any other provision of this Section, the Agency must impose those additional requirements that it determines are necessary to adequately protect human health and the environment.

j) Incorporation of a CAMU into an existing permit must be approved by the Agency according to the procedures for Agency-initiated permit modifications

pursuant to 35 Ill. Adm. Code 703.270 through 703.273, or according to the permit modification procedures of 35 Ill. Adm. Code 703.280 through 703.283.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.654 Staging Piles

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

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

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

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

c) Information that an owner or operator must submit to gain designation of a staging pile. When seeking a staging pile designation, an owner or operator must provide the following:

1) Sufficient and accurate information to enable the Agency to impose standards and design criteria for the facility's staging pile according to subsections (d) through (k) of this Section;

2) Certification by a~~an independent,~~ qualified Professional Engineer~~registered professional engineer~~ of technical data, such as design drawings and specifications, and engineering studies, unless the Agency determines, based on information that an owner or operator provides, that this certification is not necessary to ensure that a staging pile will adequately protect human health and the environment; and

3) Any additional information the Agency determines is necessary to adequately protect human health and the environment.

d) Performance criteria that a staging pile must satisfy. The Agency must establish the standards and design criteria for the staging pile in the permit, closure plan, or order.

1) The standards and design criteria must comply with the following:

A) The staging pile must facilitate a reliable, effective, and protective remedy;

B) The staging pile must be designed so as to prevent or minimize releases of hazardous wastes and hazardous constituents into the environment, and minimize or adequately control cross-media transfer, as necessary to adequately protect human health and the environment (for example, through the use of liners, covers, or runoff and runon controls, as appropriate); and

C) The staging pile must not operate for more than two years, except when the Agency grants an operating term extension pursuant to subsection (i) of this Section. An owner or operator must measure the two-year limit or other operating term specified by the Agency in the permit, closure plan, or order from the first time an owner or operator places remediation waste into a staging pile. An owner or operator must maintain a record of the date when it first placed remediation waste into the staging pile for the life of the permit,

closure plan, or order, or for three years, whichever is longer.

2) In setting the standards and design criteria, the Agency must consider the following factors:

A) The length of time the pile will be in operation;

B) The volumes of wastes the owner or operator intends to store in the pile;

C) The physical and chemical characteristics of the wastes to be stored in the unit;

D) The potential for releases from the unit;

E) The hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential releases; and

F) The potential for human and environmental exposure to potential releases from the unit.

e) Receipt of ignitable or reactive remediation waste. An owner or operator must not place ignitable or reactive remediation waste in a staging pile unless the following is true:

1) The owner or operator has treated, rendered, or mixed the remediation waste before it placed the waste in the staging pile so that the following is true of the waste:

A) The remediation waste no longer meets the definition of ignitable or reactive pursuant to 35 Ill. Adm. Code 721.121 or 721.123; and

B) The owner or operator has complied with Section 724.117(b); or

2) The owner or operator manages the remediation waste to protect it from exposure to any material or condition that may cause it to ignite or react.

f) Managing incompatible remediation wastes in a staging pile. The term

"incompatible waste" is defined in 35 Ill. Adm. Code 720.110. An owner or operator must comply with the following requirements for incompatible wastes in staging piles:

1) The owner or operator must not place incompatible remediation wastes in the same staging pile unless an owner or operator has complied with Section 724.117(b);

2) If remediation waste in a staging pile is incompatible with any waste or material stored nearby in containers, other piles, open tanks, or land disposal units (for example, surface impoundments), an owner or operator must separate the incompatible materials, or protect them from one another by using a dike, berm, wall, or other device; and

3) The owner or operator must not pile remediation waste on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to comply with Section 724.117(b).

g) Staging piles are not subject to land disposal restrictions and federal minimum technological requirements. Placing hazardous remediation wastes into a staging pile does not constitute land disposal of hazardous wastes or create a unit that is subject to the federal minimum technological requirements of section 3004(o) of RCRA, 42 USC 6924(o).

h) How long an owner or operator may operate a staging pile. The Agency may allow a staging pile to operate for up to two years after hazardous remediation waste is first placed into the pile. An owner or operator must use a staging pile no longer than the length of time designated by the Agency in the permit, closure plan, or order (the "operating term"), except as provided in subsection (i) of this Section.

i) Receiving an operating extension for a staging pile.

1) The Agency may grant one operating term extension of up to 180 days beyond the operating term limit contained in the permit, closure plan, or order (see subsection (l) of this Section for modification procedures). To justify the need for an extension, an owner or operator must provide sufficient and accurate information to enable the Agency to determine that

the following is true of continued operation of the staging pile:

A) Continued operation will not pose a threat to human health and the environment; and

B) Continued operation is necessary to ensure timely and efficient implementation of remedial actions at the facility.

2) The Agency must, as a condition of the extension, specify further standards and design criteria in the permit, closure plan, or order, as necessary, to ensure adequate protection of human health and the environment.

j) The closure requirement for a staging pile located in a previously contaminated area.

1) Within 180 days after the operating term of the staging pile expires, an owner or operator must close a staging pile located in a previously contaminated area of the site by removing or decontaminating all of the following:

A) Remediation waste;

B) Contaminated containment system components; and

C) Structures and equipment contaminated with waste and leachate.

2) An owner or operator must also decontaminate contaminated subsoils in a manner and according to a schedule that the Agency determines will adequately protect human health and the environment.

3) The Agency must include the above requirements in the permit, closure plan, or order in which the staging pile is designated.

k) The closure requirement for a staging pile located in a previously uncontaminated area.

1) Within 180 days after the operating term of the staging pile expires, an owner or operator must close a staging pile located in an uncontaminated

area of the site according to Sections 724.358(a) and 724.211 or according to 35 Ill. Adm. Code 725.358(a) and 725.211.

2) The Agency must include the requirement of this Section stated in subsection (k)(1) in the permit, closure plan, or order in which the staging pile is designated.

l) Modifying an existing permit (e.g., a RAP), closure plan, or order to allow the use of a staging pile.

1) To modify a permit, other than a RAP, to incorporate a staging pile or staging pile operating term extension, either of the following must occur:

A) The Agency must approve the modification pursuant to the procedures for Agency-initiated permit modifications in 35 Ill. Adm. Code 703.270 through 703.273; or

B) An owner or operator must request a Class 2 modification pursuant to 35 Ill. Adm. Code 703.280 through 703.283.

2) To modify a RAP to incorporate a staging pile or staging pile operating term extension, an owner or operator must comply with the RAP modification requirements pursuant to 35 Ill. Adm. Code 703.304(a) and (b).

3) To modify a closure plan to incorporate a staging pile or staging pile operating term extension, an owner or operator must follow the applicable requirements pursuant to Section 724.212(c) or 35 Ill. Adm. Code 725.212(c).

4) To modify an order to incorporate a staging pile or staging pile operating term extension, an owner or operator must follow the terms of the order and the applicable provisions of 35 Ill. Adm. Code 703.155(a)(5) or (b)(5).

m) Public availability of information about a staging pile. The Agency must document the rationale for designating a staging pile or staging pile operating term extension and make this documentation available to the public.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART W: DRIP PADS

Section 724.671 Assessment of Existing Drip Pad Integrity

a) For each existing drip pad, the owner or operator must evaluate the drip pad and determine whether~~that~~ it meets all of the requirements of this Subpart W, except the requirements for liners and leak detection systems of Section 724.673(b). No later than June 6, 1991, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a~~an independent,~~ qualified Professional Engineer~~registered professional engineer~~ that attests to the results of the evaluation. The assessment must be reviewed, updated, and re-certified annually until all upgrades, repairs or modifications necessary to achieve compliance with all ~~of~~ the standards of Section 724.673 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of Section 724.673, except the standards for liners and leak detection systems, specified in Section 724.673(b).

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

~~1) For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must have been completed by June 6, 1993, or when the drip pad has reached 15 years of age, whichever comes later.~~

~~2) For existing drip pads for which the age cannot be documented, by June 6, 1999; but, if the age of the facility is greater than seven years, all upgrades, repairs and modifications must be completed by the time the facility reaches 15 years of age or by June 6, 1993, whichever comes later.~~

~~3) The owner or operator may petition the Board for an extension of the deadline in subsection (b)(1) or (b)(2) of this Section.~~

~~A) The owner or operator must file a petition for a RCRA variance, as specified in 35 Ill. Adm. Code 104.~~

~~B) The Board will grant the petition for extension if it finds the following:~~

~~i) The drip pad meets all of the requirements of Section 724.673, except those for liners and leak detection systems specified in Section 724.673(b); and~~

~~ii) That it will continue to adequately protect human health and the environment.~~

c) Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Agency, the as-built drawings for the drip pad, together with a certification by a~~an independent,~~ qualified Professional Engineer~~registered professional engineer~~ attesting that the drip pad conforms to the drawings.

d) If the drip pad is found to be leaking or unfit for use, the owner or operator must comply with the provisions of Section 724.672(m) or close the drip pad in accordance with Section 724.675.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.673 Design and Operating Requirements

a) Drip pads must fulfill the following:

1) Not be constructed of non-earthen~~earthen~~ materials, wood, or asphalt, unless the asphalt is structurally supported;

2) Be sloped to free-drain to the associated collection system treated wood drippage, rain, other waters, or solutions of drippage and water or other wastes;

3) Have a curb or berm around the perimeter;

4) In addition, the drip pad must fulfill the following:

A) Have a hydraulic conductivity of less than or equal to 1 x 10^{-7} centimeters per second (cm/sec), e.g., existing concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to 1 x 10^{-7} cm/sec such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to the existing drip pads and those drip pads for which the owner or operator elects to comply with Section 724.672(b)~~724.672(a)~~ instead of Section 724.672(a)~~724.672(b)~~.

B) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a~~an independent~~ qualified Professional Engineer~~registered professional engineer~~ that attests to the results of the evaluation. The assessment must be reviewed, updated and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this Section, except for in subsection (b) of this Section.

5) Be of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of installation, and the stress of daily operations, e.g., variable and moving loads such as vehicle traffic, movement of wood, etc.

BOARD NOTE: In judging the structural integrity requirement of this subsection (c), the Agency should generally consider applicable standards established by professional organizations generally recognized by the industry, including ACI 318 (Building Code Requirements for Reinforced Concrete), or ASTM C 94-90 (Standard Specification for Ready-Mixed Concrete), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

b) If an owner or operator elects to comply with Section 724.672(a)~~724.672(b)~~ instead of Section 724.672(b)~~724.672(a)~~, the drip pad must have the following:

1) A synthetic liner installed below the drip pad that is designed, constructed, and installed to prevent leakage from the drip pad into the adjacent subsurface soil or groundwater or surface water at any time during the active life (including the closure period) of the drip pad. The liner must be constructed of materials that will prevent waste from being absorbed into the liner and to prevent releases into the adjacent subsurface soil or groundwater or surface water during the active life of the facility. The liner must fulfill the following:

A) It must be constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or drip pad leakage to which they are exposed, climatic conditions, the stress of installation and the stress of daily operation (including stresses from vehicular traffic on the drip pad);

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

C) It must be installed to cover all surrounding earth that could come in contact with the waste or leakage; and

2) A leakage detection system immediately above the liner that is designed, constructed, maintained, and operated to detect leakage from the drip pad. The leakage detection system must fulfill the following:

A) It must be constructed of materials that are as follows:

i) Chemically resistant to the waste managed in the drip pad and the leakage that might be generated; and

ii) Of sufficient strength and thickness to prevent collapse

under the pressures exerted by overlaying materials and by any equipment used at the drip pad; and

B) It must be designed and operated to function without clogging through the scheduled closure of the drip pad; and

C) It must be designed so that it will detect the failure of the drip pad or the presence of a release of hazardous waste or accumulated liquid at the earliest practicable time.

3) A leaking collection system immediately above the liner that is designed, constructed, maintained, and operated to collect leakage from the drip pad such that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed must be documented in the operating log.

A) The drip pad surface must be cleaned thoroughly in a manner and frequency such that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as to allow weekly inspections of the entire drip pad surface without interference of hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document the date and time of each cleaning and cleaning procedure used in the facility's operating log. The owner or operator must determine if the residues are hazardous, as per 35 Ill. Adm. Code 722.111, and, if so, the owner or operator must manage them under 35 Ill. Adm. Code 721 through 728, and Section 3010 of RCRA.

B) The federal rules do not contain a 40 CFR 264.573(b)(3)(B). This subsection (b) is added to conform to Illinois Administrative Code rules.

c) Drip pads must be maintained such that they remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad.

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

d) The drip pad and associated collection system must be designed and operated to convey, drain, and collect liquid resulting from drippage or precipitation in order to prevent run-off.

e) Unless the drip pad is protected by a structure, as described in Section 724.670(b), the owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a 24-hour, 25-year storm, unless the system has sufficient excess capacity to contain any run-on that might enter the system.

f) Unless the drip pad is protected by a structure or cover, as described in Section 724.670(b), the owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

g) The drip pad must be evaluated to determine that it meets the requirements of subsections (a) through (f) of this Section. The owner or operator must obtain a statement from a~~an independent,~~ qualified Professional Engineer~~registered professional engineer~~ certifying that the drip pad design meets the requirements of this Section.

h) Drippage and accumulated precipitation must be removed from the associated collection system as necessary to prevent overflow onto the drip pad.

i) The drip surface must be cleaned thoroughly at least once every seven days such that accumulated residues of hazardous waste or other materials are removed, using an appropriate and effective cleaning technique, including but not limited to, rinsing, washing with detergents or other appropriate solvents, or steam cleaning. The owner or operator must document, in the facility's operating log, the date and time of each cleaning and the cleaning procedure used.

j) Drip pads must be operated and maintained in a manner to minimize tracking of hazardous waste or hazardous waste constituents off the drip pad as a result of activities by personnel or equipment.

k) After being removed from the treatment vessel, treated wood from pressure and non-pressure processes must be held on the drip pad until drippage has ceased. The owner or operator must maintain records sufficient to document that all

treated wood is held on the pad, in accordance with this Section, following treatment.

l) Collection and holding units associated with run-on and run-off control systems must be emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system.

m) Throughout the active life of the drip pad and as specified in the permit, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, the condition must be repaired within a reasonably prompt period of time following discovery, in accordance with the following procedures:

1) Upon detection of a condition that may have caused or has caused a release of hazardous waste (e.g., upon detection of leakage in the leak detection system), the owner or operator must do the following:

A) Enter a record of the discovery in the facility operating log;

B) Immediately remove from service the portion of the drip pad affected by the condition;

C) Determine what steps must be taken to repair the drip pad, clean up any leakage from below the drip pad, and establish a schedule for accomplishing the clean up and repairs;

D) Within 24 hours after discovery of the condition, notify the Agency of the condition and, within 10 working days, provide written notice to the Agency with a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

2) The Agency must do the following: review the information submitted, make a determination regarding whether the pad must be removed from service completely or partially until repairs and cleanup~~clean up~~ are complete, and notify the owner or operator of the determination and the underlying rationale in writing.

3) Upon completing all repairs and clean up, the owner or operator must notify the Agency in writing and provide a certification, signed by an

independent, qualified registered professional engineer, that the repairs and cleanup~~clean up~~ have been completed according to the written plan submitted in accordance with subsection (m)(1)(D) of this Section.

n) If a permit is necessary, the Agency must specify in the permit all design and operating practices that are necessary to ensure that the requirements of this Section are satisfied.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.674 Inspections

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

b) While a drip pad is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

1) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

2) The presence of leakage in and proper functioning of leak detection system.

3) Deterioration or cracking of the drip pad surface.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section 724.936 Reporting Requirements

a) A semiannual report must be submitted by owners and operators subject to the requirements of this Subpart AA to the Agency by dates specified in the RCRA permit. The report must include the following information:

1) The USEPA identification number (35 Ill. Adm. Code 722.112), name, and address of the facility.

2) For each month during the semiannual reporting period the following:

A) Dates when the control device did the following:

i) Exceeded or operated outside of the design specifications, as defined in Section 724.935(c)(4); and

ii) Such exceedances~~exceedences~~ were not corrected within 24 hours, or that a flare operated with visible emissions, as defined by Method 22 monitoring;

B) The duration and cause of each exceedance~~exceedence~~ or visible emissions; and

C) Any corrective measures taken.

b) If during the semiannual reporting period, the control device does not exceed or operate outside of the design specifications, as defined in Section 724.935(c)(4), for more than 24 hours or a flare does not operate with visible emissions, as defined in Section 724.933(d), a report to the Agency is not required.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section 724.961 Alternative Percentage Standard for Valves

a) An owner or operator subject to the requirements of Section 724.957 may elect to have all valves within a hazardous waste management unit comply with an alternative standard that allows no greater than two percent of the valves to leak.

b) The following requirements must be met if an owner or operator decides to comply with the alternative standard of allowing two percent of valves to leak:

~~1) An owner or operator must notify the Agency that the owner or operator has elected to comply with the requirements of this Section.~~

1~~2~~) A performance test as specified in subsection (c) of this Section must be conducted initially upon designation, annually and other times specified in the RCRA permit.

2~~3~~) If a valve leak is detected it must be repaired in accordance with Section 724.957(d) and (e).

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

1) All valves subject to the requirements in Section 724.957 within the hazardous waste management unit must be monitored within one week by the methods specified in Section 724.963(b).

2) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

3) The leak percentage must be determined by dividing the number of valves subject to the requirements in Section 724.957 for which leaks are detected by the total number of valves subject to the requirements in Section 724.957 within the hazardous waste management unit.

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

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.962 Skip Period Alternative for Valves

~~a) Election.~~

a~~1~~) An owner or operator subject to the requirements of Section 724.957 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in subsections (b)(2) and (b)(3) of this Section.

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

b) Reduced Monitoring.

1) An owner or operator must comply with the requirements for valves, as described in Section 724.957, except as described in subsections (b)(2) and (b)(3).

2) After two consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than two percent, an owner or operator may begin to skip one of the quarterly leak detection periods (i.e., the owner or operator may monitor for leaks once every six months) for the valves subject to the requirements in Section 724.957.

3) After five consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than two percent, an owner or operator may begin to skip three of the quarterly leak detection periods (i.e., the owner or operator may monitor for leaks once every year) for the valves subject to the requirements in Section 724.957.

4) If the percentage of valves leaking is greater than 2 percent, the owner or operator must monitor monthly in compliance with the requirements in Section 724.957, but may again elect to use this Section after meeting the requirements of Section 724.957(c)(1).

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.965 Reporting Requirements

a) A semiannual report must be submitted by owners and operators subject to the requirements of this Subpart BB to the Agency by dates specified in the RCRA permit. The report must include the following information:

1) The USEPA identification number (35 Ill. Adm. Code 722.112), name, and address of the facility.

2) For each month during the semiannual reporting period, the following:

A) The equipment identification number of each valve for which a leak was not repaired, as required in Section 724.957(d).

B) The equipment identification number of each pump for which a leak was not repaired, as required in Section 724.952(c) and (d)(6).

C) The equipment identification number of each compressor for which a leak was not repaired, as required in Section 724.953(g).~~;~~

3) Dates of hazardous waste management unit shutdowns that occurred within the semiannual reporting period.

4) For each month during the semiannual reporting period, dates when the control device installed as required by Sections 724.952, 724.953, 724.954, or 724.955, exceeded or operated outside of the design specifications, as defined in Section 724.964(e) and as indicated by the control device monitoring required by Section 724.960 and was not corrected within 24 hours, the duration and cause of each exceedance~~exceedence~~, and any corrective measures taken.

b) If, during the semiannual reporting period, leaks from valves, pumps, and compressors are repaired as required in Sections 724.957(d), 724.952(c) and (d)(6), and 724.953(g), respectively, and the control device does not exceed or operate outside of the design specifications, as defined in Section 724.964(e) for more than 24 hours, a report to the Agency is not required.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART DD: CONTAINMENT BUILDINGS

Section 724.1100 Applicability

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

a) It is a completely enclosed, self-supporting structure that is designed and constructed of manmade materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to the following:

1) pressure gradients;

2) settlement, compression, or uplift;

3) physical contact with the hazardous wastes to which they are exposed;

4) climatic conditions; or

5) the stresses of daily operation including the movement of heavy equipment within the unit and contact of such equipment within the unit and contact of such equipment with containment walls.

b) It has a primary barrier that is designed to be sufficiently durable to withstand the movement of personnel, wastes, and handling equipment within the unit.

c) If used to manage liquids, the unit has the following:

1) A primary barrier designed and constructed of materials to prevent migration of hazardous constituents into the barrier;

2) A liquid collection system designed and constructed of materials to minimize the accumulation of liquid on the primary barrier; and

3) A secondary containment system designed and constructed of materials to

prevent migration of hazardous constituents into the barrier, with a leak detection and liquid collection system capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest practicable time, unless the unit has been granted a variance from the secondary containment system requirements under Section 724.1101(b)(4);

d) It has controls sufficient to permit fugitive dust emissions to meet the no visible emission standard in Section 724.1101(c)(1)(A); and

e) It is designed and operated to ensure containment and prevent the tracking of materials from the unit by personnel or equipment.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

Section 724.1101 Design and Operating Standards

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

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

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

waste management operation to take place in the unit, an exception to the structural strength requirement may be made for light-weight doors and windows that meet the following criteria:

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

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

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

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

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

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

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

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

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

3) A secondary containment system including a secondary barrier designed

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

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

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

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

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

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

4) For existing units other than 90-day generator units, USEPA may delay the secondary containment requirement for up to two years, based on a

demonstration by the owner or operator that the unit substantially meets the standards of this Subpart DD. In making this demonstration, the owner or operator must have done the following:

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

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

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

c) An owner or operator of a containment building must do the following:

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

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

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

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

D) Take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods)), incorporated

by reference in 35 Ill. Adm. Code 720.111(b). In addition, all associated particulate collection devices (e.g., fabric filter, electrostatic precipitator, etc.) must be operated and maintained with sound air pollution control practices (see 40 CFR 60 for guidance). This state of no visible emissions must be maintained effectively at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e) Notwithstanding any other provision of this Subpart DD, the Agency must, in writing, allow the use of alternatives to the requirements for ~~not require~~ secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator has adequately demonstrated~~demonstrates~~ that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system.

(Source: Amended at 32 Ill. Reg. 12365, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

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

3)

Section Numbers:	Adopted Action:
725.115, 725.116, 725.119	Amended
725.152, 725.156, 725.171	Amended
725.172, 725.173, 725.176	Amended
725.190, 725.193, 725.212	Amended
725.213, 725.215, 725.220	Amended
725.240, 725.242, 725.243	Amended
725.245, 725.247, 725.274	Amended
725.291, 725.292, 725.293	Amended
725.295, 725.296, 725.301	Amended
725.321	Amended
725.323, 725.324	Renumbered, Amended
725.355, 725.359, 725.380	Amended
725.401, 725.403, 725.414	Amended
725.505, 725.541, 725.543	Amended
725.544, 725.961, 725.962	Amended
725.990, 725.1100, 725.1101	Amended
725.APPENDIX F	Amended

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

5) Effective Date of Amendments: July 14, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendments, a copy of the Board's opinion and order adopted June 5, 2008 in docket R07-5/R07-14 (consolidated), 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: 32 Ill. Reg. 5429; April 11, 2008

10) Has JCAR issued a statement of objection to this rulemaking? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated March 20, 2008, in docket R07-5/R07-14 (consolidated). Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments:

The amendments to Part 725 are a single segment of the consolidated docket R07-5/R07-14 rulemaking that also affects 35 Ill. Adm. Code 703, 720, 721, 722, 723, 724, 726, 727, 728, and 739, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R07-5/R07-14 rulemaking in this *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 June 5, 2008, proposing amendments in consolidated docket R07-5/R07-14, which opinion and order is available from the address below.

Specifically, the amendments to Part 725 implement segments of the federal amendments of March 4, 2005, April 4, 2006, and July 14, 2006. The amendments complete the amendments to the hazardous waste manifest rules, implement the regulatory burden reduction amendments, and include various USEPA corrections.

Tables appear in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 5, 2008 opinion and order in docket R07-5/R07-14 (consolidated).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted amendments shall be directed to:

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

312/814-6924

Please reference consolidated docket R07-5/R07-14.

Request copies of the Board's opinion and order of June 5, 2008 at 312/814-3620. Alternatively, you may 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:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

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

SUBPART A: GENERAL PROVISIONS

Section
725.101 Purpose, Scope, and Applicability
725.102 Electronic Reporting
725.104 Imminent Hazard Action

SUBPART B: GENERAL FACILITY STANDARDS

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

SUBPART C: PREPAREDNESS AND PREVENTION

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725.130 Applicability
725.131 Maintenance and Operation of Facility
725.132 Required Equipment
725.133 Testing and Maintenance of Equipment
725.134 Access to Communications or Alarm System
725.135 Required Aisle Space

725.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

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

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section
725.170 Applicability
725.171 Use of Manifest System
725.172 Manifest Discrepancies
725.173 Operating Record
725.174 Availability, Retention, and Disposition of Records
725.175 Annual Report
725.176 Unmanifested Waste Report
725.177 Additional Reports

SUBPART F: GROUNDWATER MONITORING

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

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section
725.210 Applicability
725.211 Closure Performance Standard

725.212 Closure Plan; Amendment of Plan
725.213 Closure; Time Allowed for Closure
725.214 Disposal or Decontamination of Equipment, Structures, and Soils
725.215 Certification of Closure
725.216 Survey Plat
725.217 Post-Closure Care and Use of Property
725.218 Post-Closure Care Plan; Amendment of Plan
725.219 Post-Closure Notices
725.220 Certification of Completion of Post-Closure Care
725.221 Alternative Post-Closure Care Requirements

SUBPART H: FINANCIAL REQUIREMENTS

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

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008.

SUBPART B: GENERAL FACILITY STANDARDS

Section 725.115 General Inspection Requirements

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

human health or the environment.

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

2) A threat to human health.

b) Written schedule.

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

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

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

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

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

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

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

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

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

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

and the date, and nature of any repairs or other remedial actions.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.116 Personnel Training

a) Personnel training program.

1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under subsection (d)(3) of this Section.

2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment and emergency systems, including the following where applicable:

A) Procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment;

B) Key parameters for automatic waste feed cut-off systems;

C) Communications or alarm systems;

D) Response to fires or explosions;

E) Response to groundwater contamination incidents; and

F) Shutdown of operations.

4) For facility employees that receive emergency response training pursuant to the federal Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this section, provided that the overall facility OSHA emergency response training meets all the requirements of this Section.

b) Facility personnel must successfully complete the program required in subsection (a) of this Section upon the effective date of these regulations or six months after the date of their employment or assignment to a facility or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of subsection (a) of this Section.

c) Facility personnel must take part in an annual review of the initial training required in subsection (a) of this Section.

d) The owner or operator must maintain the following documents and records at the facility:

1) The job title for each position at the facility related to hazardous waste management and the name of the employee filling each job;

2) A written job description for each position listed under subsection (d)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications and duties of facility personnel assigned to each position;

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

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

e) Training records on current personnel must be kept until closure of the facility.

Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.119 Construction Quality Assurance Program

a) CQA program.

1) A construction quality assurance (CQA) program is required for all surface impoundment, waste pile and landfill units that are required to comply with Sections 725.321(a), 725.354, and 725.401(a). The program must ensure that the constructed unit meets or exceeds all design criteria and specifications in this Part. The program must be developed and implemented under the direction of a CQA officer that is a registered professional engineer.

2) The CQA program must address the following physical components, where applicable:

A) Foundations;

B) Dikes;

C) Low-permeability soil liners;

D) Geomembranes (flexible membrane liners);

E) Leachate collection and removal systems and leak detection systems; and

F) Final cover systems.

b) Written CQA plan. Before construction begins on a unit subject to the CQA program under subsection (a) of this Section, the owner or operator must develop a written CQA plan. The plan must identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan must include the following:

1) Identification of applicable units and a description of how they will be constructed.

2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.

3) A description of inspection and sampling activities for all unit components identified in subsection (a)(2) of this Section, including observations and tests that will be used before, during and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description must cover: Sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded and retained in the operating record under Section 725.173.

c) Contents of program.

1) The CQA program must include observations, inspections, tests and measurements sufficient to ensure the following:

A) Structural stability and integrity of all components of the unit identified in subsection (a)(2) of this Section;

B) Proper construction of all components of the liners, leachate collection and removal system, leak detection system and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g., pipes) according to design specifications;

C) Conformity of all materials used with design and other material specifications under 35 Ill. Adm. Code 724.321, 724.351, and 724.401.

2) The CQA program must include test fills for compacted soil liners, using the same compaction methods as in the full-scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of 35 Ill. Adm. Code 724.321(c)(1), 724.351(c)(1), or 724.401(c)(1) in the

field. Compliance with the hydraulic conductivity requirements must be verified by using in-situ testing on the constructed test fill. The test fill requirement is waived where data are sufficient to show that a constructed soil liner meets the hydraulic conductivity requirements of 35 Ill. Adm. Code 724.321(c)(1), 724.351(c)(1)~~724.354(c)(1),~~ or 724.401(c)(1) in the field.

d) Certification. The owner or operator of units subject to this Section must submit to the Agency by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of Sections 725.321(a), 725.354, or 725.401(a). The owner or operator may receive waste in the unit after 30 days from the Agency's receipt of the CQA certification unless the Agency determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification must be furnished to the Agency upon request.

e) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section 725.152 Content of Contingency Plan

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

b) If the owner or operator has already prepared a federal Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112 or 300, or some other emergency or contingency plan, it needs only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this Part. The owner or operator may develop one

contingency plan that meets all regulatory requirements. USEPA has recommended that the plan be based on the National Response Team's Integrated Contingency Plan Guidance (One Plan). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

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

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

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

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

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

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.156 Emergency Procedures

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

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

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

b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal~~a real~~ extent of any released materials. He or she may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

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

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

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

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

A) The name and telephone number of reporter;

B) The name and address of facility;

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

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

E) The extent of injuries, if any; and

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

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

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

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

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

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

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

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

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

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

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

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

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

4) The name and quantity of materials involved;

5) The extent of injuries, if any;

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

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

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section 725.171 Use of Manifest System

a) Receipt of manifested hazardous waste.

~~1) The following requirements apply until September 5, 2006: If a facility receives hazardous waste accompanied by a manifest, the owner or operator or its agent must do each of the following:~~

~~A) It must sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;~~

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

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

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

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

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

~~2) The following requirements apply effective September 5, 2006:~~

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

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

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

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

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

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

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

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

~~BOARD NOTE: Subsection (a)(1) of this Section corresponds with 40 CFR 265.71(a) (2004), effective until September 5, 2006. Subsection (a)(2) of this Section corresponds with 40 CFR 265.71(a) (2005), effective September 5, 2006.~~

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

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

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

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

discrepancy discovered during later analysis.

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

~~4) Forwarding copies of the manifest.~~

~~A) Until September 5, 2006: The facility owner or operator must send a copy of the signed and dated manifest to the generator and to the Agency within 30 days after the delivery; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or its agent, must send a copy of the shipping paper signed and dated to the generator; or~~

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

BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment). ~~Subsection (b)(4)(A) is derived from 40 CFR 265.74(b)(4) (2004), effective until September 5, 2006. Subsection (b)(4)(B) is derived from 40 CFR 265.74(b)(4) (2005), effective September 5, 2006.~~

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

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

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

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

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.172 Manifest Discrepancies

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

~~1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper and the quantity or type of hazardous waste a facility actually receives.~~

~~2) Significant discrepancies in quantity are defined as follows:~~

~~A) For bulk waste, variations greater than 10 percent in weight, and~~

~~B) For batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload.~~

~~3) Significant discrepancies in type are obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid or toxic constituents not reported on the manifest or shipping paper.~~

~~4) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy~~

~~and attempts to reconcile it and a copy of the manifest or shipping paper at issue.~~

~~b)~~ ~~The following requirements apply effective September 5, 2005:~~

a~~1~~) "Manifest discrepancies" are defined as any one of the following:

1~~A~~) Significant differences (as defined by subsection (b)~~(2)~~ of this Section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

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

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

b~~2~~) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.

c~~3~~) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

d~~4~~) Rejection of hazardous waste.

1~~A~~) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible

to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.

2~~B~~) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection (e)~~(b)(5)~~ or (f)~~(b)(6)~~ of this Section.

e~~5~~) Except as provided in subsection (e)(7)~~(b)(5)(G)~~ of this Section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the ~~following~~ instructions set forth in subsections (e)(1) through (e)(6) of this Section:

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

2~~B~~) Write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.

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

4~~D~~) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

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

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

7~~G~~) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with subsections (e)(1)~~(b)(5)(A)~~ through (e)(6)~~(b)(5)(F)~~ of this Section.

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

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

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

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

4~~D~~) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

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

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

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

g~~7~~) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

~~BOARD NOTE: Subsection (a) is derived from 40 CFR 265.72 (2004), effective until September 5, 2006. Subsection (b) is derived from 40 CFR 265.72 (2005), effective September 5, 2006.~~

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.173 Operating Record

a) The owner or operator must keep a written operating record at the facility.

b) The following information must be recorded as it becomes available and maintained in the operating record for three years unless otherwise provided as follows~~until closure of the facility~~:

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

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

BOARD NOTE: See Sections 725.219, 725.379, and 725.409 for related requirements.

3) Records and results of waste analysis, waste determinations, and trial tests performed, as specified in Sections 725.113, 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934, 725.963, and 725.984 and 35 Ill. Adm. Code 728.104(a) and 728.107;

4) Summary reports and details of all incidents that require implementing the contingency plan, as specified in Section 725.156(j);

5) Records and results of inspections as required by Section 725.115(d) (except these data need be kept only three years);

6) Monitoring, testing, or analytical data, where required by Subpart F of this Part or Sections 725.119, ~~725.190,~~ 725.194, 725.291, 725.293, 725.295, 725.324,~~725.322, 725.323,~~ 725.326, 725.355, ~~725.359,~~ 725.360, 725.376, 725.378, 725.380(d)(1), 725.402, ~~through~~ 725.404, 725.447, 725.477, 725.934(c) through (f), 725.935, 725.963(d) through (i), 725.964, and

725.1083 through 725.990. Maintain in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup, and response action plans for surface impoundments, waste piles, and landfills, which must be maintained in the operating record until closure of the facility;

BOARD NOTE: As required by Section 725.194, monitoring data at disposal facilities must be kept throughout the post-closure period.

7) All closure cost estimates under Section 725.242 and, for disposal facilities, all post-closure cost estimates under Section 725.244 must be maintained in the operating record until closure of the facility;

8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, a petition pursuant to 35 Ill. Adm. Code 728.106, or a certification under 35 Ill. Adm. Code 728.108 and the applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a). All of this information must be maintained in the operating record until closure of the facility;

9) For an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;

10) For an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;

11) For an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107 or 728.108;

12) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107, except for the manifest number, and the

certification and demonstration, if applicable, required under 35 Ill. Adm. Code 728.107 or 728.108;

13) For an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; ~~and~~

14) For an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; and~~.~~

15) Monitoring, testing or analytical data, and corrective action, where required by Sections 725.190 and 725.193(d)(2) and (d)(5), and the certification, as required by Section 725.196(f), must be maintained in the operating record until closure of the facility.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.176 Unmanifested Waste Report

a) ~~The following requirements apply until September 5, 2005:~~ If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest or without an accompanying shipping paper, as described in 35 Ill. Adm. Code 723.120(e)(2), and, if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code 721.105, then the owner or operator must prepare and submit a single copy of a report to the Agency within 15 days after receiving the waste. The unmanifested waste report must be submitted on USEPA form 8700-13B. Such report must be designated "Unmanifested Waste Report" and must include the following information:

1) The USEPA identification number, name, and address of the facility;

2) The date the facility received the waste;

3) The USEPA identification number, name, and address of the generator and the transporter, if available;

4) A description and the quantity of each unmanifested hazardous waste the

facility received;

5) The method of treatment, storage, or disposal for each hazardous waste;

6) The certification signed by the owner or operator of the facility or its authorized representative; and

7) A brief explanation of why the waste was unmanifested, if known.

b) ~~The following requirements apply effective September 5, 2005:~~ If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper, as described by 35 Ill. Adm. Code 723.120(e), and if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code 260 through 265, then the owner or operator must prepare and submit a letter to the Agency within 15 days after receiving the waste. The unmanifested waste report must contain the following information:

1) The USEPA identification number, name, and address of the facility;

2) The date the facility received the waste;

3) The USEPA identification number, name, and address of the generator and the transporter, if available;

4) A description and the quantity of each unmanifested hazardous waste the facility received;

5) The method of treatment, storage, or disposal for each hazardous waste;

6) The certification signed by the owner or operator of the facility or its authorized representative; and

7) A brief explanation of why the waste was unmanifested, if known.

c) This subsection (b) corresponds with 40 CFR 265.76(b), which USEPA has marked "reserved." This statement maintains structural consistency with the corresponding federal regulations.

BOARD NOTE: Small quantities of hazardous waste are excluded from regulation under this Part and do not require a manifest. Where a facility received unmanifested hazardous waste, USEPA has suggested that the owner or operator obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, USEPA has suggested that the owner or operator file an unmanifested waste report for the hazardous waste movement. ~~Subsection (a) is derived from 40 CFR 265.76 (2004), effective until September 5, 2006. Subsection (b) is derived from 40 CFR 265.76 (2005), effective September 5, 2006.~~

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART F: GROUNDWATER MONITORING

Section 725.190 Applicability

a) The owner or operator of a surface impoundment, landfill, or land treatment facility that is used to manage hazardous waste must implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility, except as Section 725.101 and subsection (c) of this Section provide otherwise.

b) Except as subsections (c) and (d) of this Section provide otherwise, the owner or operator must install, operate, and maintain a groundwater monitoring system that meets the requirements of Section 725.191 and must comply with Sections 725.192 through 725.194. This groundwater monitoring program must be carried out during the active life of the facility and for disposal facilities during the post-closure care period as well.

c) All or part of the groundwater monitoring requirements of this Subpart F may be waived if the owner or operator can demonstrate that there is a low potential for migration of hazardous waste or hazardous waste constituents from the facility via the uppermost aquifer to water supply wells (domestic, industrial, or agricultural) or to surface water. This demonstration must be in writing and must be kept at the facility. This demonstration must be certified by a qualified geologist or geotechnical engineer and must establish the following:

1) The potential for migration of hazardous waste or hazardous waste constituents from the facility to the uppermost aquifer by an evaluation of the following information:

A) A water balance of precipitation, evapotranspiration, runoff, and infiltration; and

B) Unsaturated zone characteristics (i.e., geologic materials, physical properties, and depth to ground water); and

2) The potential for hazardous waste or hazardous waste constituents that enter the uppermost aquifer to migrate to a water supply well or surface water by an evaluation of the following information:

A) Saturated zone characteristics (i.e., geologic materials, physical properties, and rate of groundwater flow); and

B) The proximity of the facility to water supply wells or surface water.

d) If an owner or operator assumes (or knows) that groundwater monitoring of indicator parameters in accordance with Sections 725.191 and 725.192 would show statistically significant increases (or decreases in the case of pH) when evaluated pursuant to Section 725.193(b), it may install, operate, and maintain an alternate groundwater monitoring system (other than the one described in Sections 725.191 and 725.192). If the owner or operator decides to use an alternate groundwater monitoring system it must have done as follows:

1) The~~By November 19, 1981, the~~ owner or operator must develop~~have submitted to the USEPA Region 5~~ a specific plan, certified by a qualified geologist or geotechnical engineer, that satisfies the requirements of federal 40 CFR 265.93(d)(3) for an alternate groundwater monitoring system. This plan is to be placed in the facility's operating record and maintained until closure of the facility;

2) The~~By November 19, 1981, the~~ owner or operator must have initiated the determinations specified in federal 40 CFR 265.93(d)(4);

3) The owner or operator must prepare~~have prepared and submitted~~ a written report in accordance with Section 725.193(d)(5) and place it in the facility's operating record and maintain until closure of the facility;

4) The owner or operator must continue to make the determinations specified in Section 725.193(d)(4) on a quarterly basis until final closure of the facility; and

5) The owner or operator must comply with the recordkeeping and reporting requirements in Section 725.194(b).

e) The groundwater monitoring requirements of this Subpart F may be waived with respect to any surface impoundment of which the following is true:

1) The impoundment is used to neutralize wastes that are hazardous solely because they exhibit the corrosivity characteristic pursuant to 35 Ill. Adm. Code 721.122 or which are listed as hazardous wastes in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

2) The impoundment contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristic before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a qualified professional.

f) A permit or enforceable document can contain alternative requirements for groundwater monitoring that replace all or part of the requirements of this Subpart F applicable to a regulated unit (as defined in 35 Ill. Adm. Code 724.190), as provided pursuant to 35 Ill. Adm. Code 703.161, where the Board has determined by an adjusted standard granted pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104 the following:

1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management units (or areas of concern) are likely to have contributed to the release; and

2) It is not necessary to apply the groundwater monitoring requirements of this Subpart F because the alternative requirements will adequately protect human health and the environment. The alternative standards for the

regulated unit must meet the requirements of 35 Ill. Adm. Code 724.201(a).

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.193 Preparation, Evaluation and Response

a) By no later than November 19, 1981, the owner or operator must have prepared an outline of a groundwater quality assessment program. The outline must describe a more comprehensive groundwater monitoring program (than that described in Sections 725.191 and 725.192) capable of determining each of the following:

1) Whether hazardous waste or hazardous waste constituents have entered the groundwater;

2) The rate and extent of migration of hazardous waste or hazardous waste constituents in the groundwater; and

3) The concentrations of hazardous waste or hazardous waste constituents in the groundwater.

b) For each indicator parameter specified in Section 725.192(b)(3), the owner or operator must calculate the arithmetic mean and variance, based on at least four replicate measurements on each sample, for each well monitored in accordance with Section 725.192(d)(2) and compare these results with its initial background arithmetic mean. The comparison must consider individually each of the wells in the monitoring system and must use the Student's t-test at the 0.01 level of significance (see Appendix D) to determine statistically significant increases (and decreases, in the case of pH) over initial background.

c) Well comparisons.

1) If the comparisons for the upgradient wells made under subsection (b) of this Section show a significant increase (or pH decrease) the owner or operator must submit this information in accordance with Section 725.194(a)(2)(B).

2) If the comparisons for downgradient wells made under subsection (b) of

this Section show a significant increase (or pH decrease) the owner or operator must then immediately obtain additional groundwater samples for those downgradient wells where a significant difference was detected, split the samples in two and obtain analyses of all additional samples to determine whether the significant difference was a result of laboratory error.

d) Notice to the Agency.

1) If the analyses performed under subsection (c)(2) of this Section confirm the significant increase (or pH decrease) the owner or operator must provide written notice to the Agency – within seven days after the date of such confirmation – that the facility may be affecting groundwater quality.

2) Within 15 days after the notification under subsection (d)(1) of this Section, the owner or operator must develop ~~and submit to the Agency~~ a specific plan, based on the outline required under subsection (a) of this Section and certified by a qualified geologist or geotechnical engineer for a groundwater quality assessment ~~program~~ at the facility. This plan must be placed in the facility operating record and be maintained until closure of the facility.

3) The plan to be submitted under Section 725.190(d)(1) or subsection (d)(2) of this Section must specify all of the following:

A) The number, location, and depth of wells;

B) Sampling and analytical methods for those hazardous wastes or hazardous waste constituents in the facility;

C) Evaluation procedures, including any use of previously gathered groundwater quality information; and

D) A schedule of implementation.

4) The owner or operator must implement the groundwater quality assessment plan that satisfies the requirements of subsection (d)(3) of this Section and, at a minimum, determine each of the following:

A) The rate and extent of migration of the hazardous waste or hazardous waste constituents in the groundwater; and

B) The concentrations of the hazardous waste or hazardous waste constituents in the groundwater.

5) The owner or operator must make his first determination under subsection (d)(4) of this Section, as soon as technically feasible ~~and~~, and prepare a~~within 15 days after that determination, submit to the Agency a written~~ report containing an assessment of the groundwater quality. This report must be placed in the facility operating record and be maintained until closure of the facility.

6) If the owner or operator determines, based on the results of the first determination under subsection (d)(4) of this Section, that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in Section 725.192 and subsection (b) of this Section. If the owner or operator reinstates the indicator evaluation program, he must so notify the Agency in the report submitted under subsection (d)(5) of this Section.

7) If the owner or operator determines, based on the first determination under subsection (d)(4) of this Section, that hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then the owner or operator must do either of the following:

A) It must continue to make the determinations required under subsection (d)(4) of this Section on a quarterly basis until final closure of the facility if the groundwater quality assessment plan was implemented prior to final closure of the facility; or

B) It may cease to make the determinations required under subsection (d)(4) of this Section if the groundwater quality assessment plan was implemented during the post-closure care period.

e) Notwithstanding any other provision of this Subpart F, any groundwater quality assessment to satisfy the requirements of subsection (d)(4) of this Section that is initiated prior to final closure of the facility must be completed and reported in

accordance with subsection (d)(5) of this Section.

f) Unless the groundwater is monitored to satisfy the requirements of subsection (d)(4) of this Section at least annually the owner or operator must evaluate the data on groundwater surface elevations obtained under Section 725.192(e) to determine whether the requirements under Section 725.191(a) for locating the monitoring wells continues to be satisfied. If the evaluation shows that Section 725.191(a) is no longer satisfied, the owner or operator must immediately modify the number, location or depth of the monitoring wells to bring the groundwater monitoring system into compliance with this requirement.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section 725.212 Closure Plan; Amendment of Plan

a) Written plan. Within six months after the effective date of the rule that first subjects a facility to provisions of this Section, the owner or operator of a hazardous waste management facility must have a written closure plan. Until final closure is completed and certified in accordance with Section 725.215, a copy of the most current plan must be furnished to the Agency upon request including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections on the day of inspection to any officer, employee, or representative of the Agency.

b) Content of plan. The plan must identify the steps necessary to perform partial or final closure of the facility at any point during its active life. The closure plan must include the following minimal information:

1) A description of how each hazardous waste management unit at the facility will be closed in accordance with Section 725.211;

2) A description of how final closure of the facility will be conducted in accordance with Section 725.211. The description must identify the maximum extent of the operation that will be unclosed during the active life of the facility;

3) An estimate of the maximum inventory of hazardous wastes ever on-site

over the active life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing, or disposing of all hazardous waste, and identification of and the types of off-site hazardous waste management units to be used, if applicable;

4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard;

5) A detailed description of other activities necessary during the partial and final closure periods~~period~~ to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and runon and runoff control;

6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities that will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover must be included.);

7) An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance under Section 725.243 or 725.245 and whose remaining operating life is less than twenty years, and for facilities without approved closure plans; and

8) For a facility where alternative requirements are established at a regulated unit under Section 725.190(f), 725.210(d), or 725.240(d), as provided under 35 Ill. Adm. Code 703.161, either the alternative requirements applying to the regulated unit or a reference to the enforceable document containing those alternative requirements.

c) Amendment of plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan must submit a written request to the Agency to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the Agency.

1) The owner or operator must amend the closure plan whenever any of the following occurs:

A) Changes in the operating plans or facility design affect the closure plan;

B) Whenever there is a change in the expected year of closure, if applicable;

C) In conducting partial or final closure activities, unexpected events require a modification of the closure plan; or

D) The owner or operator requests the establishment of alternative requirements, as provided under 35 Ill. Adm. Code 703.161, to a regulated unit under Section 725.190(f), 725.210(c), or 725.240(d).

2) The owner or operator must amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles that intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with Section 725.410.

3) An owner or operator with an approved closure plan must submit the modified plan to the Agency at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days

after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles that intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with Section 725.410. If the amendment to the plan is a Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code 703.280, the modification to the plan must be approved according to the procedures in subsection (d)(4) of this Section.

4) The Agency may request modifications to the plan under the conditions described in subsection (c)(1) of this Section. An owner or operator with an approved closure plan must submit the modified plan within 60 days after the request from the Agency, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code 703.280, the modification to the plan must be approved in accordance with the procedures in subsection (d)(4) of this Section.

d) Notification of partial closure and final closure.

1) When notice is required.

A) The owner or operator must submit the closure plan to the Agency at least 180 days prior to the date on which the owner or operator expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier.

B) The owner or operator must submit the closure plan to the Agency at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace.

C) The owner or operator must submit the closure plan to the Agency at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

D) An owner or operator with an approved closure plan must notify the Agency in writing at least 60 days prior to the date on which

the owner or operator expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit.

E) An owner or operator with an approved closure plan must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace.

F) An owner or operator with an approved closure plan must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

2) The date when the owner or operator "expects to begin closure" must be either of the following dates:

A) Within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit demonstrates to the Agency that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and that the owner or operator has taken and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements, the Agency must approve an extension to this one-year limit; or

B) For units meeting the requirements of Section 725.213(d), no later than 30 days after the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional non-hazardous wastes, no later than one year after the date on which the unit received the most recent volume of non-hazardous wastes. If the owner or operator demonstrates to the Agency that the

hazardous waste management unit has the capacity to receive additional non-hazardous wastes and that the owner and operator have taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements, the Agency must approve an extension to this one-year limit.

3) The owner or operator must submit the closure plan to the Agency no later than 15 days after occurrence of either of the following events:

A) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

B) Issuance of a judicial decree or Board order to cease receiving hazardous wastes or to close the facility or unit.

4) The Agency must provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications of the plan no later than 30 days from the date of the notice. The Agency must also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Agency must give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments and the two notices may be combined.) The Agency must approve, modify, or disapprove the plan within 90 days after its receipt. If the Agency does not approve the plan, the Agency must provide the owner or operator with a detailed written statement of reasons for the refusal, and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Agency must approve or modify this plan in writing within 60 days. If the Agency modifies the plan, this modified plan becomes the approved closure plan. The Agency must assure that the approved plan is consistent with Sections 725.211 through 725.215 and the applicable requirements of Sections 725.190 et seq., 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102~~724.1102~~. A copy of this modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

e) Removal of wastes and decontamination or dismantling of equipment. Nothing in this Section precludes the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.213 Closure; Time Allowed for Closure

a) Within 90 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) of this Section at a hazardous waste management unit or facility, or 90 days after approval of the closure plan, whichever is later, the owner or operator must treat, remove from the unit or facility, or dispose of on-site all hazardous wastes in accordance with the approved closure plan. The Agency must approve a longer period if the owner or operator demonstrates the following:

1) The need to remain in operation by showing either of the following conditions exists:

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

B) All of the following conditions are true:

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

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

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

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

b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all applicable requirements of subsections (d) and (e) of this Section at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The Agency must approve an extension to the closure period if the owner or operator demonstrates the following:

1) The need to remain in operation by showing either of the following conditions exists:

A) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

B) All of the following conditions are true:

i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) of this Section; and

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

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

2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

c) The demonstration referred to in subsections (a)(1) and (b)(1) of this Section must be made as follows:

1) The demonstration in subsection (a)(1) of this Section must be made at least 30 days prior to the expiration of the 90-day period in subsection (a) of this Section; and

2) The demonstrations in subsection (b)(1) of this Section must be made at least 30 days prior to the expiration of the 180-day period in subsection (b) of this Section, unless the owner or operator is otherwise subject to deadlines in subsection (d) of this Section.

d) Continued receipt of non-hazardous waste. The Agency must permit an owner or operator to receive non-hazardous wastes in a landfill, land treatment unit or surface impoundment unit after the final receipt of hazardous wastes at that unit if the following are true:

1) The owner or operator submits an amended Part B application, or a new Part B application if none was previously submitted, and demonstrates the following:

A) The unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes;

B) There is a reasonable likelihood that the owner or operator or another person will receive non-hazardous waste in the unit within one year after the final receipt of hazardous wastes;

C) The non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility pursuant to this Part;

D) Closure of the hazardous waste management unit would be

incompatible with continued operation of the unit or facility; and

E) The owner or operator is operating and will continue to operate in compliance with all applicable interim status requirements;

2) The Part B application includes an amended waste analysis plan, groundwater monitoring and response program, human exposure assessment required pursuant to 35 Ill. Adm. Code 703.186, closure and post-closure care plans, updated cost estimates, and demonstrations of financial assurance for closure and post-closure care, as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes and changes in closure activities, including the expected year of closure, if applicable pursuant to Section 725.212(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes;

3) The Part B application is amended, as necessary and appropriate, to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

4) The Part B application and the demonstrations referred to in subsections (d)(1) and (d)(2) of this Section are submitted to the Agency no later than 180 days prior to the date on which the owner or operator of the facility receives the known final volume of hazardous wastes or no later than 90 days after this Section applies to the facility, whichever is later.

e) Surface impoundments. In addition to the requirements in subsection (d) of this Section, an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements in Section 725.321(a) must receive non-hazardous wastes only as authorized by an adjusted standard pursuant to this subsection (e).

1) The petition for adjusted standard must include the following:

A) A plan for removing hazardous wastes; and

B) A contingent corrective measures plan.

2) The removal plan must provide for the following:

A) Removing all hazardous liquids;

B) Removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any; and

C) Removal of hazardous wastes no later than 90 days after the final receipt of hazardous wastes. The Board will allow a longer time, if the owner or operator demonstrates the following:

i) That the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete; and

ii) That an extension will not pose a threat to human health and the environment.

3) The following is required of contingent corrective measures plan:

A) It must meet the requirements of a corrective action plan pursuant to Section 724.199, based upon the assumption that a release has been detected from the unit.

B) It may be a portion of a corrective action plan previously submitted pursuant to Section 724.199.

C) It may provide for continued receipt of non-hazardous wastes at the unit following a release only if the owner or operator demonstrates that continued receipt of wastes will not impede corrective action.

D) It must provide for implementation within one year after a release, or within one year after the grant of the adjusted standard, whichever is later.

4) Release. A release is a statistically significant increase (or decrease in the case of pH) in hazardous constituents over background levels, detected in accordance with the requirements in Subpart F of this Part.

5) In the event of a release, the owner or operator of the unit must perform

the following actions:

A) Within 35 days, the owner or operator must file with the Board 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. If the Board finds that it is necessary to do so in order to adequately protect human health and the environment, the Board will modify the adjusted standard to require the owner or operator to perform either of the following actions:

i) Begin to implement the corrective measures plan in less than one year; or

ii) Cease the receipt of wastes until the plan has been implemented.

iii) The Board will retain jurisdiction or condition the adjusted standard so as to require the filing of a new petition to address any required closure pursuant to subsection (e)(7) of this Section;

B) The owner or operator must implement the contingent corrective measures plan; and

C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.

6) Annual~~Semi-annual~~ report. During the period of corrective action, the owner or operator must provide annual~~semi-annual~~ reports to the Agency that fulfill the following requirements:

A) They must describe the progress of the corrective action program;

B) They must compile all groundwater monitoring data; and

C) They must evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

7) Required closure. The owner or operator must commence closure of the

unit in accordance with the closure plan and the requirements of this Part if the Board terminates the adjusted standard, or if the adjusted standard terminates pursuant to its terms.

A) The Board will terminate the adjusted standard if the owner or operator failed to implement corrective action measures in accordance with the approved contingent corrective measures plan.

B) The Board will terminate the adjusted standard if the owner or operator fails to make substantial progress in implementing the corrective measures plan and achieving the facility's groundwater protection standard, or background levels if the facility has not yet established a groundwater protection standard.

C) The adjusted standard will automatically terminate if the owner or operator fails to implement the removal plan.

D) The adjusted standard will automatically terminate if the owner or operator fails to timely file a required petition for adjusted standard.

8) Adjusted standard procedures. The following procedures must be used in granting, modifying or terminating an adjusted standard pursuant to this subsection.

A) Except as otherwise provided, the owner or operator must follow the procedures of Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104 to petition the Board for an adjusted standard.

B) Initial justification. The Board will grant an adjusted standard, pursuant to subsection (e)(1) of this Section, if the owner or operator demonstrates that the removal plan and contingent corrective measures plans meet the requirements of subsections (e)(2) and (e)(3) of this Section.

C) The Board will include the following conditions in granting an adjusted standard pursuant to subsection (e)(1) of this Section:

i) A plan for removing hazardous wastes;

ii) A requirement that the owner or operator remove hazardous wastes in accordance with the plan;

iii) A contingent corrective measures plan;

iv) A requirement that, in the event of a release, the owner or operator must, within 35 days, file with the Board a petition for adjusted standard, implement the corrective measures plan, and file semi-annual reports with the Agency;

v) A condition that the adjusted standard will terminate if the owner or operator fails to implement the removal plan or timely file a required petition for adjusted standard; and

vi) A requirement that, in the event the adjusted standard is terminated, the owner or operator must commence closure of the unit in accordance with the requirements of the closure plan and this Part.

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

9) The owner or operator may file a revised closure plan within 15 days after an adjusted standard is terminated.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.215 Certification of Closure

Within 60 days after completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days after completion of final closure, the owner or operator must submit to the Agency, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by a qualified Professional Engineer~~an independent registered professional~~

~~engineer~~. Documentation supporting the Professional Engineer's~~independent registered professional engineer's~~ certification must be furnished to the Agency upon request until the Agency releases the owner or operator from the financial assurance requirements for closure under Section 725.243(h).

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.220 Certification of Completion of Post-Closure Care

No later than 60 days after the completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Agency, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and a qualified Professional Engineer~~an independent registered professional engineer~~. Documentation supporting the Professional Engineer's~~independent registered professional engineer's~~ certification must be furnished to the Agency upon request until the Agency releases the owner or operator from the financial assurance requirements for post-closure care under Section 725.245(h).

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART H: FINANCIAL REQUIREMENTS

Section 725.240 Applicability

a) The requirements of Sections 725.242, 725.243, and 725.247 through 725.250 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in Section 725.101.

b) The requirements of Sections 725.244 and 725.245~~725.246~~ apply only to owners and operators of any of the following:

1) Disposal facilities;

2) Tank systems that are required pursuant to Section 725.297 to meet the requirements for landfills; or

3) Containment buildings that are required pursuant to Section 725.1102 to meet the requirements for landfills.

c) States and the federal government are exempt from the requirements of this Subpart H.

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

1) The Board, by an adjusted standard granted pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104, has established alternative requirements for the regulated unit established pursuant to Section 725.190(f) or Section 724.210(d); and

2) The Board has determined that it is not necessary to apply the financial assurance requirements of this Subpart H because the alternative financial assurance requirements will adequately protect human health and the environment.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.242 Cost Estimate for Closure

a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections ~~725.278,~~ 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.

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

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

demonstrates that on-site disposal capacity will exist at all times over the life of the facility.

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

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

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

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

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

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

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

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.243 Financial Assurance for Closure

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

a) Closure trust fund.

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

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

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

A) The first payment must be made before May 19, 1981, except as provided in subsection (a)(5) of this Section. The first payment

must be at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section, divided by the number of years in the pay-in period.

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

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

Where:

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

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

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

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

7) If the value of the trust fund is greater than the total amount of the current

closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c) Closure letter of credit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate

assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.

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

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

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

d) Closure insurance.

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

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

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

4) The closure insurance policy must guarantee that funds will be available to

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

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

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

7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon

consent of the insurer, provided such consent is not unreasonably refused.

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

A) The Agency deems the facility abandoned;

B) Interim status is terminated or revoked;

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

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

E) The premium due is paid.

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

10) The Agency must give written consent to the owner or operator that the

owner or operator may terminate the insurance policy when either of the following occurs:

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

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

e) Financial test and corporate guarantee for closure.

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

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

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

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

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

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

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

i) A current rating for its most recent bond issuance of AAA,

AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

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

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

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

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

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

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

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

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

i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been

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

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

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

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

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

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

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

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

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

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.

10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (e)(1) through (e)(8) of this Section, and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 35 Ill. Adm. Code 724.251. The corporate guarantee must accompany the items sent to the Agency as specified in subsection (e)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this substantial business relationship" and the value received in consideration of the guarantee. The terms of the corporate guarantee must provide the following:

A) That, if the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in subsection (a) of this Section, in the name of the owner or operator.

B) That the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

C) That, if the owner or operator fails to provide alternate financial assurance as specified in this Section and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in subsections (a) through (d) of this Section, respectively, except that it is the combination of mechanisms, rather than the single mechanism, that must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for closure of the facility.

g) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility. Evidence of financial assurance submitted to the Agency must include a list showing, for each facility,

the USEPA identification number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. The amount of funds available to the Agency must be sufficient to close all of the owner or operator's facilities. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Agency may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

h) Release of the owner or operator from the requirements of this Section. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer~~an independent registered professional engineer~~ that final closure has been completed in accordance with the approved closure plan, the Agency must notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain financial assurance for closure of the facility, unless the Agency determines that closure has not been in accordance with the approved closure plan. The Agency must provide the owner or operator a detailed written statement of any such determination that closure has not been in accordance with the approved closure plan.

i) Appeal. The following Agency actions are deemed to be permit modifications or refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code 702.184(e)(3)):

1) An increase in, or a refusal to decrease the amount of, a bond, letter of credit, or insurance; or

2) Requiring alternate assurance upon a finding that an owner or operator or parent corporation no longer meets a financial test.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.245 Financial Assurance for Post-Closure Monitoring and Maintenance

An owner or operator of a facility with a hazardous waste disposal unit must establish financial assurance for post-closure care of the disposal units. The owner or operator must choose from the following options:

a) Post-closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by establishing a post-closure trust fund that conforms to the requirements of this subsection and submitting an original, signed duplicate of the trust agreement to the Agency. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.

2) The wording of the trust agreement must be as specified in 35 Ill. Adm. Code 724.251 and the trust agreement must be accompanied by a formal certification of acknowledgment (as specified in 35 Ill. Adm. Code 724.251). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.

3) Payments into the trust fund must be made annually by the owner or operator over the 20 years beginning May 19, 1981, or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the post-closure trust fund must be made as follows:

A) The first payment must have been made before May 19, 1981, except as provided in subsection (a)(5) of this Section. The first payment must be at least equal to the current post-closure cost estimate, except as provided in subsection (f) of this Section, divided by the number of years in the pay-in period.

B) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

Where:

CE = the current closure cost estimate
CV = the current value of the trust fund

Y = the number of years remaining in the pay-in period.

4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3) of this Section.

5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3) of this Section.

6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in this Section to cover the difference.

7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate.

8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.

10) During the period of post-closure care, the Agency must approve a release of funds if the owner or operator demonstrates to the Agency that the value of the trust fund exceeds the remaining cost of post-closure care.

11) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

12) The Agency must agree to termination of a trust when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.

b) Surety bond guaranteeing payment into a post-closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: http://www.fms.treas.gov/c570/.

2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.

3) The owner or operator that uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a) of this Section, except as follows:

A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:

i) Payments into the trust fund, as specified in subsection (a) of this Section;

ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.251) to show current post-closure cost estimates;

iii) Annual valuations, as required by the trust agreement; and

iv) Notices of nonpayment, as required by the trust agreement.

4) The bond must guarantee that the owner or operator will perform the following acts:

A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Board or a court of competent jurisdiction; or

C) Provide alternate financial assurance, as specified in this Section,

and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (f) of this Section.

7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

9) The owner or operator may cancel the bond if the Agency has given prior written consent based on its receipt of evidence of alternate financial assurance as specified in this Section.

c) Post-closure letter of credit.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (c) and submitting the letter to the Agency. The issuing institution must be an entity that has the authority to issue

letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.

2) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.

3) An owner or operator that uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a) of this Section, except as follows:

A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and

B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:

i) Payments into the trust fund, as specified in subsection (a) of this Section;

ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.151) to show current post-closure cost estimates;

iii) Annual valuations, as required by the trust agreement; and

iv) Notices of nonpayment, as required by the trust agreement.

4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.

5) The letter of credit must be irrevocable and issued for a period of at least

one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

6) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (f) of this Section.

7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

8) During the period of post-closure care, the Agency must approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.

9) Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other interim status requirements, the Agency may draw on the letter of credit.

10) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay

the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days after any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.

11) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.

d) Post-closure insurance.

1) An owner or operator may satisfy the requirements of this Section by obtaining post-closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.

3) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure estimate, except as provided in subsection (f) of this Section. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of facility whenever the post-closure period begins. The policy must also guarantee that, once post-closure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the

Agency, to such party or parties as the Agency specifies.

5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing, if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator, as specified in subsection (d)(11) of this Section. Failure to pay the premium, without substitution of alternate financial assurance, as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the Board may impose pursuant to the Environmental Protection Act. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in

the event that, on or before the date of expiration, one of the following occurs:

A) The Agency deems the facility abandoned;

B) Interim status is terminated or revoked;

C) Closure is ordered by the Board or a court of competent jurisdiction;

D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or

E) The premium due is paid.

9) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer must thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

11) The Agency must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as

specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.

e) Financial test and corporate guarantee for post-closure care.

1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test, as specified in this subsection (e). To pass this test the owner or operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) of this Section:

A) The owner or operator must have each of the following:

i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible new worth of at least $10 million; and

iv) Assets in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the plugging and abandonment cost estimates.

B) The owner or operator must have each of the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least $10 million; and

iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

2) The phrase "current closure and post-closure cost estimates," as used in subsection (e)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The phrases "current plugging and abandonment cost estimates," as used in subsection (e)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).

3) To demonstrate that it meets this test, the owner or operator must submit each of the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251;

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating both of the following:

i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii) In connection with that procedure, that no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.

4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal provision relating to an extension of the time to file the proofs of financial assurance required by this subsection (e) granted by USEPA. This statement maintains structural consistency with the corresponding federal regulations.

5) After the initial submission of items specified in subsection (e)(3) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (e)(3) of this Section.

6) If the owner or operator no longer meets the requirements of subsection (e)(1) of this Section, the owner or operator must send notice to the Agency of intent to establish alternate financial assurance, as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (e)(1) of this Section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (e)(3) of this Section. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (e)(1) of this Section, the owner or operator must provide alternate financial assurance, as specified in this Section, within 30 days after notification of such a finding.

8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial

statements (see subsection (e)(3)(B) of this Section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance, as specified in this Section, within 30 days after notification of the disallowance.

9) During the period of post-closure care, the Agency must approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Agency that the amount of the cost estimate exceeds the remaining cost of post-closure care.

10) The owner or operator is no longer required to submit the items specified in subsection (e)(3) of this Section when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.

11) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (e)(1) through (e)(9) of this Section, and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 35 Ill. Adm. Code 724.251. The corporate guarantee must accompany the items sent to the Agency as specified in subsection (e)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this substantial business relationship" and the value received in consideration

of the guarantee. The terms of the corporate guarantee must provide as follows:

A) That, if the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with the post-closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in subsection (a) of this Section, in the name of the owner or operator.

B) That the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

C) That, if the owner or operator fails to provide alternate financial assurance, as specified in this Section, and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in subsections (a) through (d) of this Section, respectively, except that it is the combination of mechanisms, rather than the single mechanism, that must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, it may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for post-closure care of the facility.

g) Use of a financial mechanism for multiple facilities. An owner or operator may

use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility. Evidence of financial assurance submitted to the Agency must include a list showing, for each facility, the USEPA Identification Number, name, address, and the amount of funds for post-closure care assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. The amount of funds available to the Agency must be sufficient to provide post-closure care for all of the owner or operator's facilities. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the Agency may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

h) Release of the owner or operator from the requirements of this Section. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer~~an independent registered professional engineer~~ that the post-closure care period has been completed in accordance with the approved post-closure plan, the Agency must notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain financial assurance for post-closure care of that unit, unless the Agency determines that post-closure care has not been in accordance with the approved post-closure plan. The Agency must provide the owner or operator a detailed written statement of any such determination that post-closure care has not been in accordance with the approved post-closure plan.

i) Appeal. The following Agency actions are deemed to be permit modifications or refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code 702.184(e)(3)):

1) An increase in, or a refusal to decrease the amount of, a bond, letter of credit, or insurance; or

2) Requiring alternate assurance upon a finding that an owner or operator or parent corporation no longer meets a financial test.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.247 Liability Requirements

a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated, as specified in subsections (a)(1) through (a)(6) of this Section:

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (a)(1).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement and of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. ~~The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.~~ The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy.

B) Each insurance policy must be issued by an insurer that is licensed by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) of this Section.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i)

of this Section.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances pursuant to this subsection (a)~~(b)~~(6), the owner or operator must specify at least one such assurance as "primary" coverage, and must specify other such assurance as "excess" coverage.

7) An owner or operator must notify the Agency within 30 days whenever one of the following occurs:

A) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (a)(1) through (a)(6) of this Section;

B) A Certification of Valid Claim for bodily injury or property damages caused by sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage pursuant to subsections (a)(1) through (a)(6) of this Section; or

C) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage pursuant to subsections (a)(1) through (a)(6)

of this Section.

b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill, or land treatment facility that is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. An owner or operator meeting the requirements of this Section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. An owner or operator that combines coverage levels for sudden and nonsudden accidental occurrences must maintain liability coverage in the amount of at least $4 million per occurrence and $8 million annual aggregate. This liability coverage may be demonstrated, as specified in subsections (b)(1) through (b)(6) of this Section:

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (b)(1).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be as specified in 35 Ill. Adm. Code 724.251. The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy.

B) Each insurance policy must be issued by an insurer that is licensed by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as

specified in subsections (f) and (g) of this Section.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) of this Section.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances pursuant to this subsection (b)(6), the owner or operator must specify at least one such assurance as "primary" coverage, and must specify other such assurance as "excess" coverage.

7) An owner or operator must notify the Agency within 30 days whenever one of the following occurs:

A) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (b)(1) through (b)(6) of this Section;

B) A Certification of Valid Claim for bodily injury or property damages caused by sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage pursuant to subsections

(b)(1) through (b)(6) of this Section; or

C) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage pursuant to subsections (b)(1) through (b)(6) of this Section.

c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsections (a) or (b) of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted in writing to the Agency. If granted, the Agency's action must take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator that requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b) of this Section. The Agency must process any request for an adjusted level of required liability coverage as if it were a permit modification request pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128. Notwithstanding any other provision, the Agency must hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the Agency must adjust the level of financial responsibility required pursuant to subsection (a) or (b) of this Section as may be necessary to adequately protect human health and the environment. This adjusted

level must be based on the Agency's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from non-sudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b) of this Section. An owner or operator must furnish to the Agency, within a time specified by the Agency in the request, which must not be less than 30 days, any information that the Agency requests to determine whether cause exists for such adjustments of level or type of coverage. The Agency must process any request for an adjusted level of required liability coverage as if it were a permit modification request pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128. Notwithstanding any other provision, the Agency must hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer~~an independent registered professional engineer~~ that final closure has been completed in accordance with the approved closure plan, the Agency must notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain liability coverage for that facility, unless the Agency determines that closure has not been in accordance with the approved closure plan.

f) Financial test for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test, as specified in this subsection (f)(1). To pass this test the owner or operator must meet the criteria of subsection (f)(1)(A) or (f)(1)(B) of this Section:

A) The owner or operator must have each of the following:

i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test;

ii) Tangible net worth of at least $10 million; and

iii) Assets in the United States amounting to either: at least 90 percent of total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

B) The owner or operator must have each of the following:

i) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth of at least $10 million;

iii) Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

iv) Assets in the United States amounting to either of the following: at least 90 percent of total assets or at least six times the amount of liability coverage to be demonstrated by this test.

2) The phrase "amount of liability coverage," as used in subsection (f)(1) of this Section, refers to the annual aggregate amounts for which coverage is required pursuant to subsections (a) and (b) of this Section.

3) To demonstrate that the owner or operator meets this test, the owner or operator must submit each of the following three items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 35 Ill. Adm. Code 724.243(f) and 724.245(f), or by Sections 725.243(e) and 725.245(e), and liability coverage, it must submit the letter specified in 35 Ill. Adm. Code 724.251 to cover both forms of financial responsibility; a separate letter, as specified in 35 Ill.

Adm. Code 724.251 is not required.

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating as follows:

i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii) In connection with that procedure, that no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.

5) After the initial submission of items specified in subsection (f)(3) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (f)(3) of this Section.

6) If the owner or operator no longer meets the requirements of subsection (f)(1) of this Section, the owner or operator must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage, as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

7) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B) of this Section). An adverse opinion or a disclaimer of opinion is cause for disallowance. The Agency must

evaluate other qualifications on an individual basis. The owner or operator must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

g) Guarantee for liability coverage.

1) Subject to subsection (g)(2) of this Section, an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a " guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners and operators in subsections (f)(1) through (f)(6) of this Section. The wording of the guarantee must be as specified in 35 Ill. Adm. Code 724.251. A certified copy of the guarantee must accompany the items sent to the Agency as specified in subsection (f)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide as follows:

A) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.

B) The guarantee remains in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee must not be terminated unless and until the Agency approves alternate liability coverage complying with

Section 725.247 or 35 Ill. Adm. Code 724.247.

2) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:

A) The guarantee was signed in Illinois by an authorized agent of the guarantor;

B) The guarantee is governed by Illinois law; and

C) The name and address of the guarantor's registered agent for service of process.

3) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].

h) Letter of credit for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection, and submitting a copy of the letter of credit to the Agency.

2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.

3) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.

4) An owner or operator that uses a letter of credit to satisfy the requirements of this Section may also establish a trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a

trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or that complies with the Corporate Fiduciary Act [205 ILCS 620].

5) The wording of the standby trust fund must be identical to the wording specified in 35 Ill. Adm. Code 724.251(n).

i) Surety bond for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (i) and submitting a copy of the bond to the Agency.

2) The surety company issuing the bond must be licensed by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

3) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.

j) Trust fund for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this subsection and submitting a signed, duplicate original of the trust agreement to the Agency.

2) The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or that complies with the Corporate Fiduciary Act [205 ILCS 620].

3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of establishment of the fund, must either add sufficient funds to the trust fund to cause its value to equal the

full amount of liability coverage to be provided, or obtain other financial assurance, as specified in this Section, to cover the difference. For purposes of this subsection, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and nonsudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

4) The wording of the trust fund must be as specified in 35 Ill. Adm. Code 724.251.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section 725.274 Inspections

At least weekly the~~The~~ owner or operator must inspect areas where containers are stored~~ at least weekly~~, ~~looking~~ except for the owner or operator of a Performance Track member facility, which must conduct inspections at least once each month after approval by the Agency. To apply for reduced inspection frequency, the owner or operator of the Performance Track member facility must follow the procedures described in Section 725.115(b)(5). The owner or operator must look for leaking containers and for deterioration of containers~~leaks and for deterioration~~ caused by corrosion or other factors.

BOARD NOTE: See Section 725.271 for remedial action required if deterioration or leaks are detected.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART J: TANK SYSTEMS

Section 725.291 Assessment of Existing Tank System Integrity

a) For each existing tank system that does not have secondary containment meeting the requirements of Section 725.293, the owner or operator must determine either that the tank system is not leaking or that it is unfit for use. Except as provided in subsection (c), the owner or operator must, after January 12, 1988, obtain and

keep on file at the facility a written assessment reviewed and certified by a~~an independent,~~ qualified Professional Engineer, ~~registered professional engineer~~ in accordance with 35 Ill. Adm. Code 702.126(d), that attests to the tank system's integrity.

b) This assessment must determine whether the tank system is adequately designed and has sufficient structural strength and compatibility with the wastes to be stored or treated to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

1) Design standards, if available, according to which the tank and ancillary equipment were constructed;

2) Hazardous characteristics of the wastes that have been or will be handled;

3) Existing corrosion protection measures;

4) Documented age of the tank system, if available, (otherwise, an estimate of the age); and

5) Results of a leak test, internal inspection, or other tank integrity examination, such that the following conditions are met:

A) For non-enterable underground tanks, this assessment must consist of a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pocket, and high water table effects.

B) For other than non-enterable underground tanks and for ancillary equipment, this assessment must be either a leak test, as described above, or an internal inspection or other tank integrity examination certified by a~~an independent,~~ qualified Professional Engineer, ~~registered professional engineer~~ in accordance with 35 Ill. Adm. Code 702.126(d), that addresses cracks, leaks, corrosion, and erosion.

BOARD NOTE: The practices described in the American Petroleum Institute (API) Publication, "Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks,"

incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as guidelines in conducting the integrity examination of an other than non-enterable underground tank system.

c) Tank systems that store or treat materials that become hazardous wastes subsequent to July 14, 1986 must conduct this assessment within 12 months after the date that the waste becomes a hazardous waste.

d) If, as a result of the assessment conducted in accordance with subsection (a) of this Section, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of Sections 725.296.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.292 Design and Installation of New Tank Systems or Components

a) An owner or operator of a new tank system or component must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the wastes to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by a~~an independent,~~ qualified Professional Engineer, ~~registered professional engineer~~ in accordance with 35 Ill. Adm. Code 702.126(d), attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include~~, at a minimum,~~ the following information:

1) Design standards according to which the tanks and ancillary equipment is or will be constructed.

2) Hazardous characteristics of the wastes to be handled.

3) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system is or will be in contact with the soil or with water, a determination by a corrosion expert of the following:

A) Factors affecting the potential for corrosion, including but not

limited to the following:

i) Soil moisture content;

ii) Soil pH;

iii) Soil sulfides level;

iv) Soil resistivity;

v) Structure to soil potential;

vi) Influence of nearby underground metal structures (e.g., piping);

vii) Stray electric current;

viii) Existing corrosion-protection measures (e.g., coating, cathodic protection, etc.); and

B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

i) Corrosion-resistant materials of construction such as special alloys, or fiberglass-reinforced plastic;

ii) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and

iii) Electrical isolation devices such as insulating joints and flanges, etc.

BOARD NOTE: The practices described in the National Association of Corrosion Engineers (NACE) Standard, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE Recommended

Practice RP0285, and "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632, each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

4) For underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

5) Design considerations to ensure the following:

A) Tank foundations will maintain the load of a full tank;

B) Tank systems will be anchored to prevent flotation or dislodgement where the tank system is placed in a saturated zone, or is located within a seismic fault zone; and

C) Tank systems will withstand the effects of frost heave.

b) The owner and operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing or placing a new tank system or component in use, an independent, qualified installation inspector or a~~an independent,~~ qualified Professional Engineer, ~~registered professional engineer,~~ either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system or component for the presence of any of the following items:

1) Weld breaks;

2) Punctures;

3) Scrapes of protective coatings;

4) Cracks;

5) Corrosion; and

6) Other structural damage or inadequate construction or installation. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

c) New tank systems or components and piping that are placed underground and which are backfilled must be provided with a backfill material that is a noncorrosive, porous, and homogeneous substance which is carefully installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

d) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leaks in the system must be performed prior to the tank system being covered, enclosed, or placed in use.

e) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

BOARD NOTE: The piping system installation procedures described in "Installation of Underground Petroleum Storage Systems," API Recommended Practice 1615, or "Chemical Plant and Petroleum Refinery Piping," ASME/ANSI Standard B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used where applicable, as guidelines for proper installation of piping systems.

f) The owner and operator must provide the type and degree of corrosion protection necessary, based on the information provided under subsection (a)(3) of this Section, to ensure the integrity of the tank system during use of the tanks system. An independent corrosion expert must supervise the installation of a corrosion protection system that is field fabricated to ensure proper installation.

g) The owner and operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of subsections (b) through (f) of this Section to attest that the tank system was properly designed and installed and that repairs, pursuant to subsections (b) and (d) of this Section were performed. These written statements must also include the certification statement, as required in 35 Ill. Adm. Code 702.126(d).

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.293 Containment and Detection of Releases

a) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in subsections (f) and (g) of this Section).

1) For a new or existing tank system or component, prior to its being put into service.~~;~~

~~2) For all existing tanks used to store or treat USEPA Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027, as defined in 35 Ill. Adm. Code 721.131, within two years after January 12, 1987;~~

~~3) For those existing tank systems of known and documentable age, within two years after January 12, 1987, or when the tank systems have reached 15 years of age, whichever come later;~~

~~4) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age or within two years of January 12, 1987, whichever comes later; and~~

2~~5~~) For a tank system~~systems~~ that stores~~store~~ or treats~~treat~~ materials that become hazardous wastes~~ subsequent to January 12, 1987~~, within two years after the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later~~the time intervals required in subsections (a)(1) through (a)(4) of this Section, except that the date that a material becomes a hazardous waste must be used in place of January 12, 1987~~.

b) Secondary containment systems must be as follows:

1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

c) To meet the requirements of subsection (b) of this Section, secondary containment systems must be at a minimum as follows:

1) Constructed of or lined with materials that are compatible with the wastes to be placed in the tank system and of sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression, or uplift;

3) Provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing detection technology or site conditions will not allow detection of a release within 24 hours;

4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

BOARD NOTE: If the collected material is a hazardous waste under 35 Ill. Adm. Code 721, it is subject to management as a hazardous waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722 through 728. If the collected material is discharged through a point source to waters of the State, it is subject to the NPDES permit requirement of

Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309. If discharged to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of 35 Ill. Adm. Code 307 and 310. If the collected material is released to the environment, it may be subject to the reporting requirements of 35 Ill. Adm. Code 750.410 and federal 40 CFR 302.6.

d) Secondary containment for tanks must include one or more of the following devices:

1) A liner (external to the tank);

2) A vault;

3) A double-walled tank; or

4) An equivalent device as approved by the Board in an adjusted standards proceeding.

e) In addition to the requirements of subsections (b), (c), and (d), secondary containment systems must satisfy the following requirements:

1) External liner systems must be as follows:

A) Designed or operated to contain 100 percent of the capacity of the largest tank within the liner system's boundary;

B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

C) Free of cracks or gaps; and

D) Designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if released from the tanks (i.e., capable of preventing lateral as well as vertical migration of the waste).

2) Vault systems must be as follows:

A) Designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;

B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

C) Constructed with chemical-resistant water stops in place at all joints (if any);

D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i) Meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or

ii) Meets the definition of reactive waste under 35 Ill. Adm. Code 721.123 and may form an ignitable or explosive vapor; and

F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

3) Double-walled tanks must be as follows:

A) Designed as an integral structure (i.e., an inner tank within an outer shell) so that any release from the inner tank is contained by the outer shell;

B) Protected, if constructed of metal, from both corrosion of the primary tank interior and the external surface of the outer shell; and

C) Provided with a built-in continuous leak detection system capable of detecting a release within 24 hours or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing leak detection technology or site conditions will not allow detection of a release within 24 hours.

BOARD NOTE: The provisions outlined in the Steel Tank Institute (STI) document "Standard for Dual Wall Underground Steel Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used as guidelines for aspects of the design of underground steel double-walled tanks.

f) Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (c) and (h) of this Section, except for the following:

1) Aboveground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis;

2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and

4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices, etc.) that are visually inspected for leaks on a daily basis.

g) Pursuant to Section 28.1 of the Environmental Protection Act [415 ILCS 5/28.1], and in accordance with Subpart D of 35 Ill. Adm. Code 104, an adjusted standard will be granted by the Board regarding alternative design and operating practices

only if the Board finds either that the alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system, or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not receive an adjusted standard from the secondary containment requirements of this Section through a justification in accordance with subsection (g)(2) of this Section.

1) When determining whether to grant alternative design and operating practices based on a demonstration of equivalent protection of groundwater and surface water, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:

A) The nature and quantity of the waste;

B) The proposed alternate design and operation;

C) The hydrogeologic setting of the facility, including the thickness of soils between the tank system and groundwater; and

D) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to groundwater or surface water.

2) In deciding whether to grant alternative design and operating practices based on a demonstration of no substantial present or potential hazard, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:

A) The potential adverse effects on groundwater, surface water, and land quality taking the following into account:

i) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

ii) The hydrogeological characteristics of the facility and surrounding land;

iii) The potential for health risks caused by human exposure to waste constituents;

iv) The potential for damage to wildlife; crops, vegetation, and physical structures caused by exposure to waste constituents; and

v) The persistence and permanence of the potential adverse effects;

B) The potential adverse effects of a release on groundwater quality, taking the following into account:

i) The quantity and quality of groundwater and the direction of groundwater flow;

ii) The proximity and withdrawal rates of water in the area;

iii) The current and future uses of groundwater in the area; and

iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

C) The potential adverse effects of a release on surface water quality, taking the following into account:

i) The quantity and quality of groundwater and the direction of groundwater flow;

ii) The patterns of rainfall in the region;

iii) The proximity of the tank system to surface waters;

iv) The current and future uses of surface waters in the area and water quality standards established for those surface waters; and

v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality; and

D) The potential adverse effects of a release on the land surrounding the tank system, taking the following into account:

i) The patterns of rainfall in the region; and

ii) The current and future uses of the surrounding land.

3) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1), at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the alternative design and operating practices), must fulfill the following requirements:

A) It must comply with the requirements of Section 725.296, except Section 725.296(d); and

B) It must decontaminate or remove contaminated soil to the extent necessary to assure the following:

i) It must enable the tank system, for which alternative design and operating practices were granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and

ii) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water.

C) If contaminated soil cannot be removed or decontaminated in accordance with subsection (g)(3)(B), it must comply with the requirements of Section 725.297(b).

4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements

of subsection (g)(1) of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the alternative design and operating practices, must fulfill the following requirements:

A) It must comply with the requirements of Section 725.296(a), (b), (c), and (d); and

B) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 725.297(b);

C) If repairing, replacing, or reinstalling the tank system, it must provide secondary containment in accordance with the requirements of subsections (a) through (f) of this Section, or make the alternative design and operating practices demonstration to the Board again with respect to secondary containment and meet the requirements for new tank systems in Section 725.292 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil is decontaminated or removed, and groundwater or surface water has not been contaminated.

h) In order to make an alternative design and operating practices demonstration, the owner or operator must follow the following procedures, in addition to those specified in Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104:

1) The owner or operator must file a petition for approval of alternative design and operating practices according to the following schedule:

A) For existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with subsection (a) of this Section; and

B) For new tank systems, at least 30 days prior to entering into a

contract for installation of the tank system.

2) As part of the petition, the owner or operator must also submit the following to the Board:

A) A description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsection (g)(1) or (g)(2) of this Section; and

B) The portion of the Part B permit application specified in 35 Ill. Adm. Code 703.202.

3) The owner or operator must complete its showing within 180 days after filing its petition for approval of alternative design and operating practices.

4) The Agency must issue or modify the RCRA permit so as to require the permittee to construct and operate the tank system in the manner that was provided in any Board order approving alternative design and operating practices.

i) All tank systems, until such time as secondary containment meeting the requirements of this Section is provided, must comply with the following:

1) For non-enterable underground tanks, a leak test that meets the requirements of Section 725.291(b)(5) must be conducted at least annually.

2) For other than non-enterable underground tanks and for all ancillary equipment, the owner or operator must either conduct a~~an annual~~ leak test, as described in subsection (i)(1) of this Section, or an internal inspection or other tank integrity examination, by a~~an independent,~~ qualified Professional Engineer, ~~registered professional engineer,~~ that addresses cracks, leaks, and corrosion or~~and~~ erosion ~~must be conducted~~ at least annually. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.

BOARD NOTE: The practices described in API Publication "Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, when applicable, as guidelines for assessing the overall condition of the tank system.

3) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (i)(1) through (i)(3) of this Section.

4) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (i)(1) through (i)(3) of this Section, the owner or operator must comply with the requirements of Section 725.296.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.295 Inspections

a) The owner or operator must inspect the following, where present, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design.~~:~~

b) Except as noted under subsection (c) of this Section, the owner or operator must inspect the following at least once each operating day:

1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

2) Above ground portions~~The aboveground portion~~ of the tank system, if any, to detect corrosion or releases of waste; and

~~3) Data gathered from monitoring equipment (e.g., pressure and temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design; and~~

34) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary

containment system~~structures~~ (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation, etc.).~~;~~

BOARD NOTE: Section 725.115(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Section 725.296 requires the owner or operator to notify the Agency within 24 hours of confirming a release. Also, federal 40 CFR 302 may require the owner or operator to notify the National Response Center of a release.

c) The owner or operator of a tank system that either uses leak detection equipment to alert facility personnel to leaks or implements established workplace practices to ensure leaks are promptly identified must inspect at least weekly those areas described in subsections (b)(1) through (b)(3) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

d) The owner or operator of a Performance Track member facility may inspect on a less frequent basis, after approval by the Agency, but it must inspect at least once each month. To apply for a less than weekly inspection frequency, the owner or operator of the Performance Track member facility must follow the procedures described in Section 725.115(b)(5).

e) Ancillary equipment that is not provided with secondary containment, as described in Section 725.293(f)(1) through (f)(4), must be inspected at least once each operating day.

f~~b~~) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and

2) All sources of impressed current must be inspected or tested, as appropriate, at least every other month.

BOARD NOTE: The practices described in "Control of External Corrosion on

Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE Recommended Practice RP0285-85, or "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632, each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

ge) The owner or operator must document in the operating record of the facility an inspection of those items in subsections (a) and (b) of this Section.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.296 Response to Leaks or Spills and Disposition of Tank Systems

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately. The owner or operator must satisfy the following requirements:

a) Cease using; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

b) Removal of waste from tank system or secondary containment system.

1) If the release was from the tank system, the owner or operator must, within 24 hours after detection of the leak, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

2) If the release was to a secondary containment system, all released materials must be removed within 24 hours to prevent harm to human health and the environment.

c) Containment of visible releases to the environment. The owner or operator must immediately conduct a visual inspection of the release and, based upon that inspection, do the following:

1) Prevent further migration of the leak or spill to soils or surface water; and

2) Remove and properly dispose of any visible contamination of the soil or surface water.

d) Notifications; reports.

1) Any release to the environment, except as provided in subsection (d)(2) of this Section, must be reported to the Agency within 24 hours after detection.

2) A leak or spill of hazardous waste is exempted from the requirements of this subsection (d) if the following occur:

A) The spill is less than or equal to a quantity of one pound; and

B) The spill is immediately contained and cleaned-up.

3) Within 30 days after detection of a release to the environment, a report containing the following information must be submitted to the Agency:

A) Likely route of migration of the release;

B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate, etc.);

C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency as soon as they become available;

D) Proximity to downgradient drinking water, surface water, and population areas; and

E) Description of response actions taken or planned.

e) Provision of secondary containment, repair, or closure.

1) Unless the owner or operator satisfies the requirements of subsections (e)(2) through (e)(4) of this Section, the tank system must be closed in

accordance with Section 725.297.

2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner or operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section 725.293 before it is returned to service, unless the source of the leak is an aboveground portion of a tank system. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of subsection (f) of this Section are satisfied. If a component is replaced to comply with the requirements of this subsection (e)(4), that component must satisfy the requirements for new tank systems or components in Sections 725.292 and 725.293. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with Section 725.293 prior to being returned to use.

f) Certification of major repairs. If the owner or operator has repaired a tank system in accordance with subsection (e) of this Section, and the repair has been extensive (e.g., installation of an internal liner, repair of a ruptured primary containment or secondary containment vessel, etc.), the tank system must not be returned to service unless the owner or operator has obtained a certification by a~~an independent~~ qualified Professional Engineer, ~~registered professional engineer~~ in accordance with 35 Ill. Adm. Code 702.126(d), that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be placed in the operating record and maintained until closure of the facility~~submitted to the Agency within seven days after returning the tank system to use~~.

BOARD NOTE: See Section 725.115(c) for the requirements necessary to remedy a failure. Also, federal 40 CFR 302.6 requires the owner or operator to notify the National Response Center of a release of any "reportable quantity."

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.301 Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month

a) The requirements of this Section apply to small quantity generators that generate more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and that do not accumulate over 6,000 kg on-site at any time.

b) A generator of between 100 and 1,000 kg/mo hazardous waste must comply with the following general operating requirements:

1) Treatment or storage of hazardous waste in tanks must comply with Section 725.117(b);

2) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life;

3) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank; and

4) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

BOARD NOTE: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

c) Except as noted in subsection (d) of this Section, a~~A~~ generator of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must inspect the following, where present:

1) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

3) The level of waste in the tank at least once each operating day to ensure compliance with subsection (b)(3) of this Section;

4) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

5) The construction materials of and the area immediately surrounding discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

BOARD NOTE: As required by Section 725.115(c), the owner or operator must remedy any deterioration or malfunction the owner or operator finds.

d) A generator that accumulates between 100 and 1,000 kg/mo of hazardous waste in tanks or tank systems which have full secondary containment and which either uses leak detection equipment to alert facility personnel to leaks or implements established workplace practices to ensure leaks are promptly identified must inspect at least weekly, where applicable, the areas identified in subsections (c)(1) through (c)(5) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

e) The owner or operator of a Performance Track member facility may inspect on a less frequent basis after approval by the Agency, but it must inspect at least once each month. To apply for a less than weekly inspection frequency, the owner or operator of the Performance Track member facility must follow the procedures described in Section 725.115(b)(5).

f~~d~~) A generator of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures.

BOARD NOTE: At closure, as throughout the operating period, unless the owner or operator demonstrates, in accordance with 35 Ill. Adm. Code 721.103(d) or (e), that any solid waste removed from the tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and 725.

g~~e~~) A generator of between 100 and 1,000 kg/mo must comply with the following special requirements for ignitable or reactive waste:

1) Ignitable or reactive waste must not be placed in a tank unless one of the following conditions are fulfilled:

A) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the following is true of the waste:

i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code 721.121 or 721.123, and

ii) Section 725.117(b) is complied with;

B) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

C) The tank is used solely for emergencies.

2) The owner or operator of a facility that treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of "Flammable and Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

h~~f~~) A generator of between 100 and 1,000 kg/mo must comply with the following special requirements for incompatible wastes:

1) Incompatible wastes or incompatible wastes and materials (see appendix V of 40 CFR 265 (Examples of Potentially Incompatible Waste), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for examples) must not be placed in the same tank unless Section 725.117(b) is complied with.

2) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material unless Section 725.117(b) is complied with.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART K: SURFACE IMPOUNDMENTS

Section 725.321 Design and Operating Requirements

a) The owner or operator of each new surface impoundment unit~~ on which construction commences after January 29, 1992~~, each lateral expansion of a surface impoundment unit~~ on which construction commences after July 29, 1992~~, and each replacement of an existing surface impoundment unit~~ that is to commence reuse after July 29, 1992,~~ must install two or more liners and a leachate collection and removal system between such liners, and operate the leachate collection and removal system, in accordance with 35 Ill. Adm. Code 724.321(c), unless exempted under 35 Ill. Adm. Code 724.321(d), (e), or (f). ~~"Construction commences" is as defined in 35 Ill. Adm. Code 720.110 under "existing facility."~~

b) The owner or operator of each unit referred to in subsection (a) of this Section must notify the Agency at least sixty days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part B application within six months of the receipt of such notice.

c) The owner or operator of any replacement surface impoundment unit is exempt from subsection (a) of this Section if the following conditions are fulfilled:

1) The existing unit was constructed in compliance with the design standards

of 35 Ill. Adm. Code 724.321(c), (d), and (e); and

BOARD NOTE: The cited subsections implemented the design standards of sections 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act (42 USC 6924(o)(1)(A)(i) and (o)(5)).

2) There is no reason to believe that the liner is not functioning as designed.

d) The Agency must not require a double liner as set forth in subsection (a) of this Section for any monofill, if the following conditions are fulfilled:

1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents that render the wastes hazardous for reasons other than the toxicity characteristic in 35 Ill. Adm. Code 721.124, with USEPA hazardous waste numbers D004 through D017; and

2) No migration demonstration.

A) Design and location requirements.

i) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of this subsection (d)(2)(A)(i) the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, groundwater, or surface water at any time during the active life of the facility. In the case of any surface impoundment that has been exempted from the requirements of subsection (a) of this Section, of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of such impoundment the owner or operator must remove or decontaminate all waste residues, all contaminated liner material and contaminated soil to the extent practicable. If all contaminated soil is not removed

or decontaminated, the owner or operator of such impoundment must comply with appropriate post-closure requirements, including but not limited to groundwater monitoring and corrective action;

ii) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in 35 Ill. Adm. Code 702.110); and

iii) The monofill is in compliance with generally applicable groundwater monitoring requirements for facilities with RCRA permits; or

B) The owner or operator demonstrates to the Board that the monofill is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

e) In the case of any unit in which the liner and leachate collection system have been installed pursuant to the requirements of subsection (a) of this Section, and in good faith compliance with subsection (a) and with guidance documents governing liners and leachate collection systems under subsection (a) of this Section, the Agency must not require a liner or leachate collection system that is different from that which was so installed pursuant to subsection (a) of this Section when issuing the first permit to such facility, except that the Agency is not precluded from requiring installation of a new liner when the Agency finds that any liner installed pursuant to the requirements of subsection (a) of this Section is leaking.

f) A surface impoundment must maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action, or a storm. Except as provided in subsection (g) of this Section, there must be at least 60 centimeters (two feet) of freeboard.

g) A freeboard level less than 60 centimeters (two feet) may be maintained if the owner or operator obtains certification by a qualified engineer that alternate design features or operating plans will, to the best of the engineer's knowledge and opinion, prevent overtopping of the dike. The certification, along with a written identification of alternate design features or operating plans preventing

overtopping, must be maintained at the facility.

BOARD NOTE: Any point source discharge from a surface impoundment to waters of the State is subject to the requirements of Section 12 of the Environmental Protection Act [415 ILCS 5/12]. Spills may be subject to Section 311 of the Clean Water Act (33 USC 1321).

h) Surface impoundments that are newly subject to this Part due to the promulgation of additional listings or characteristics for the identification of hazardous waste must be in compliance with subsections (a), (c), or (d) of this Section not later than 48 months after the promulgation of the additional listing or characteristic. This compliance period must not be cut short as the result of the promulgation of land disposal prohibitions under 35 Ill. Adm. Code 728 or the granting of an extension to the effective date of a prohibition pursuant to 35 Ill. Adm. Code 728.105, within this 48 month period.

i) Refusal to grant an exemption or waiver, or grant with conditions, may be appealed to the Board.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.323~~725.324~~ Containment System

An earthen dike must have a protective cover, such as grass, shale, or rock to minimize wind and water erosion and to preserve its structural integrity.

~~BOARD NOTE: Two versions of 40 CFR 265.223 exist in the federal regulations. USEPA added the second at 57 Fed. Reg. 3486, January 29, 1992. Section 725.324 is derived from the original version of 40 CFR 265.223.~~

(Source: Renumbered from Section 725.324 and amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.324~~725.323~~ Response Actions

a) The owner or operator of surface impoundment units subject to Section 725.321(a) must develop and keep on site~~submit~~ a response action plan~~ to the Agency when submitting the proposed action leakage rate under Section 725.322~~. The response action plan must set forth the actions to be taken if the action

leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) of this Section.

b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the owner or operator must do the following:

1) Notify the Agency in writing of the exceedance~~exceedence~~ within seven days after the determination;

2) Submit a preliminary written assessment to the Agency within 14 days of the determination, as to the amount of liquids; likely sources of liquids; possible location, size, and cause of any leaks; and short-term actions taken and planned;

3) Determine to the extent practicable the location, size, and cause of any leak;

4) Determine whether waste receipt should cease or be curtailed; whether any waste should be removed from the unit for inspection, repairs, or controls; and whether or not the unit should be closed;

5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3) through (b)(5) of this Section, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.

c) To make the leak or remediation determinations in subsections (b)(3) through (b)(5) of this Section, the owner or operator must do either of the following:

1) Perform the following assessments:

A) Assess the source of liquids and amounts of liquids by source;

B) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

(Source: Renumbered from Section 725.323 and amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART L: WASTE PILES

Section 725.355 Action Leakage Rates

a) The owner or operator of waste pile units subject to Section 725.354 must submit a proposed action leakage rate to the Agency when submitting the notice required under Section 725.354. Within 60 days after receipt of the notification, the Agency must either establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or it must extend the review period for up to 30 days. If no action is taken by the Agency before the original 60 or extended 90 day review period, the action leakage rate must be approved as proposed by the owner or operator.

b) The Agency must approve an action leakage rate for waste pile~~surface impoundment~~ units subject to Section 725.354. The action leakage rate is the maximum design flow rate that the LDS can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material, etc.), construction, operation, and location of the LDS; waste and leachate characteristics; the likelihood and amounts of other sources of liquids in the LDS; and proposed response actions (e.g., the action leakage rate must consider decreases in the flow

capacity of the system over time resulting from siltation and clogging, rib layover, and creep of synthetic components of the system; overburden pressures; etc.).

c) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly flow rate from the monitoring data obtained under Section 725.360, to an average daily flow rate (gallons per acre per day) for each sump. The average daily flow rate for each sump must be calculated weekly during the active life and closure period.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.359 Response Actions

a) The owner or operator of waste pile units subject to Section 725.354 must submit a response action plan to the Agency when submitting the proposed action leakage rate under Section 725.355. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) of this Section.

b) If the flow rate into the leak determination system exceeds the action leakage rate for any sump, the owner or operator must do the following:

1) Notify the Agency in writing of the exceedance~~exceedence~~ within seven days after the determination;

2) Submit a preliminary written assessment to the Agency within 14 days after the determination as to the amount of liquids; likely sources of liquids; possible location, size, and cause of any leaks; and short-term actions taken and planned;

3) Determine to the extent practicable the location, size, and cause of any leak;

4) Determine whether waste receipts should cease or be curtailed; whether

any waste should be removed from the unit for inspection, repairs, or controls; and whether or not the unit should be closed;

5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3) through (b)(5) of this Section, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.

c) To make the leak or remediation determinations in subsections (b)(3) through (b)(5) of this Section, the owner or operator must do either of the following:

1) Perform the following assessments:

A) Assess the source of liquids and amounts of liquids by source;

B) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART M: LAND TREATMENT

Section 725.380 Closure and Post-Closure

a) In the closure plan under Section 725.212 and the post-closure plan under Section 725.218 the owner or operator must address the following objectives and indicate how they will be achieved:

1) Control of the migration of hazardous waste and hazardous waste constituents from the treated area into the groundwater;

2) Control of the release of contaminated runoff from the facility into surface water;

3) Control of the release of airborne particulate contaminants caused by wind erosion; and

4) Compliance with Section 725.376 concerning the growth of food-chain crops.

b) The owner or operator must consider at least the following factors in addressing the closure and post-closure care objectives of subsection (a) of this Section:

1) The type and amount of hazardous waste and hazardous waste constituents applied to the land treatment facility;

2) The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;

3) The site location, topography, and surrounding land use with respect to the potential effects of pollutant migration (e.g., proximity to groundwater, surface water, and drinking water sources);

4) Climate, including amount, frequency, and pH of precipitation;

5) Geological and soil profiles and surface and subsurface hydrology of the site and soil characteristics, including cation exchange capacity, total organic carbon, and pH;

6) Unsaturated zone monitoring information obtained under Section 725.378; and

7) The type, concentration, and depth of migration of hazardous waste constituents in the soil, as compared to their background concentrations.

c) The owner or operator must consider at least the following methods in addressing the closure and post-closure care objectives of subsection (a) of this Section:

1) Removal of contaminated soils;

2) Placement of a final cover, considering the following:

A) Functions of the cover (e.g., infiltration control, erosion and runoff control, and wind erosion control); and

B) Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and

3) Monitoring of groundwater.

d) In addition to the requirements of Subpart G of this Part during the closure period the owner or operator of a land treatment facility must do the following:

1) It must continue unsaturated zone monitoring in a manner and frequency specified in the closure plan, except that soil pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone;

2) It must maintain the run-on control system required under Section 725.372(b);

3) It must maintain the run-off management system required under Section 725.372(c); and

4) It must control wind dispersal of particulate matter that may be subject to wind dispersal.

e) For the purpose of complying with Section 725.215, when closure is completed the owner or operator may submit to the Agency certification both by the owner

or operator and by an independent qualified soil scientist, in lieu of a qualified Professional Engineer~~an independent registered professional engineer~~, that the facility has been closed in accordance with the specifications in the approved closure plan.

f) In addition to the requirements of Section 725.217, during the post-closure care period the owner or operator of a land treatment unit must fulfill the following requirements:

1) It must continue soil-core monitoring by collecting and analyzing samples in a manner and frequency specified in the post-closure plan;

2) It must restrict access to the unit as appropriate for its post-closure use;

3) It must assure that growth of food chain crops complies with Section 725.376; and

4) It must control wind dispersal of hazardous waste.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART N: LANDFILLS

Section 725.401 Design Requirements

a) The owner or operator of each new landfill unit~~ on which construction commences after January 29, 1992~~, each lateral expansion of a landfill unit~~ on which construction commences after July 29, 1992~~, and each replacement of an existing landfill unit~~ that is to commence reuse after July 29, 1992,~~ must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal system~~systems~~, in accordance with 35 Ill. Adm. Code 724.401(c), unless exempted by 35 Ill. Adm. Code 724.401(d), (e) or (f).~~ "Construction commences" is as defined in 35 Ill. Adm. Code 720.110 under "existing facility."~~

b) The owner or operator of each unit referred to in subsection (a) of this Section must notify the Agency at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part B application within six months of the receipt of such notice.

c) The owner or operator of any replacement landfill unit is exempt from subsection (a) of this Section if both of the following are true:

1) The existing unit was constructed in compliance with the design standards of 35 Ill. Adm. Code 724.401(c), (d), and (e); and

BOARD NOTE: The cited subsections implemented the design standards of sections 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act (42 USC 6924(o)(1)(A)(i) and (o)(5)).

2) There is no reason to believe that the liner is not functioning as designed.

d) The Agency must not require a double liner as set forth in subsection (a) of this Section for any monofill, if the following conditions are fulfilled:

1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do~~waste does~~ not contain constituents that render the wastes hazardous for reasons other the toxicity characteristic in 35 Ill. Adm. Code 721.124, with hazardous waste numbers~~number~~ D004 through D017; and

2) Alternative demonstration.

A) Liner and location requirements.

i) The monofill has at least one liner for which there is no evidence that such liner is leaking;

ii) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in 35 Ill. Adm. Code 702.110); and

iii) The monofill is in compliance with generally applicable groundwater monitoring requirements for facilities with RCRA permits; or

B) The owner or operator demonstrates to the Board that the monofill is located, designed, and operated so as to assure that there will be

no migration of any hazardous constituent into groundwater or surface water at any future time.

e) In the case of any unit in which the liner and leachate collection system have been installed pursuant to the requirements of subsection (a) of this Section, and in good faith compliance with subsection (a) of this Section and with guidance documents governing liners and leachate collection systems under subsection (a), the Agency must not require a liner or leachate collection system that is different from that which was so installed pursuant to subsection (a) of this Section when issuing the first permit to such facility, except that the Agency is not precluded from requiring installation of a new liner when the Agency finds that any liner installed pursuant to the requirements of subsection (a) of this Section is leaking.

f) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

g) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24 hour, 25-year storm.

h) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

i) The owner or operator of a landfill containing hazardous waste that is subject to dispersal by wind must cover or otherwise manage the landfill so that wind dispersal of the hazardous waste is controlled.

BOARD NOTE: As required by Section 725.113, the waste analysis plan must include analyses needed to comply with Sections 725.412, 725.413, and 725.414. As required by Section 725.173, the owner or operator must place the results of these analyses in the operating record of the facility.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.403 Response Actions

a) The owner or operator of landfill units subject to Section 725.401(a) must develop

and keep on site until closure of the facility~~submit~~ a response action plan~~ to the Agency when submitting the proposed action leakage rate under Section 725.402~~. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) of this Section.

b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the owner or operator must do each of the following:

1) Notify the Agency in writing of the exceedance~~exceedence~~ within seven days after the determination;

2) Submit a preliminary written assessment to the Agency within 14 days after the determination, as to the amount of liquids; likely sources of liquids; possible location, size, and cause of any leaks; and short-term actions taken and planned;

3) Determine to the extent practicable the location, size, and cause of any leak;

4) Determine whether waste receipt should cease or be curtailed; whether any waste should be removed from the unit for inspection, repairs, or controls; and whether or not the unit should be closed;

5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3) through (b)(5) of this Section, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.

c) To make the leak or remediation determinations in subsections (b)(3) through (b)(5) of this Section, the owner or operator must do either of the following:

1) Perform the following assessments:

A) Assess the source of liquids and amounts of liquids by source;

B) Conduct a fingerprint, hazardous constituent or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.414 Special Requirements for Liquid Wastes

~~a) This subsection (a) corresponds with 40 CFR 265.314(a), which pertains to the placement of bulk or non-containerized liquid waste or waste containing free liquids in a landfill prior to May 8, 1985. This statement maintains structural consistency with USEPA rules.~~

a~~b~~) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

b~~c~~) Containers holding free liquids must not be placed in a landfill unless one of the following conditions is fulfilled:

1) One of the following occurs with regard to all free-standing liquid:

A) It has been removed by decanting or other methods;

B) It has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

C) It has been otherwise eliminated;

2) The container is very small, such as an ampule;

3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

4) The container is a lab pack, as defined in Section 724.416, and is disposed of in accordance with Section 724.416.

c~~d~~) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095B (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," USEPA publication number EPA 530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

d~~e~~) This subsection (d) corresponds with 40 CFR 265.314(d), which recites a past effective date. This statement maintains structural parity with the federal regulations~~The placement of any liquid that is not a hazardous waste in a landfill is prohibited (35 Ill. Adm. Code 729.311)~~.

e~~f~~) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are one of the following: materials listed or described in subsection (f)(1) of this Section; materials that pass one of the tests in subsection (f)(2) of this Section; or materials that are determined by the Board to be nonbiodegradable through the adjusted standard procedure of Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104.

1) Nonbiodegradable sorbents are the following:

A) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites, calcium carbonate (organic free limestone), oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth, perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly

ash, rice hull ash, activated charcoal/activated carbon, etc.); or

B) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

C) Mixtures of these nonbiodegradable materials.

2) Tests for nonbiodegradable sorbents.

A) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a) (Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi), incorporated by reference in 35 Ill. Adm. Code 720.111(a);

B) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b) (Standard Practice for Determining Resistance of Plastics to Bacteria), incorporated by reference in 35 Ill. Adm. Code 720.111(a); or

C) The sorbent material is determined to be non-biodegradable under OECD Guideline for Testing of Chemicals, Method301B (CO_2 Evolution (Modified Sturm Test)), incorporated by reference in 35 Ill. Adm. Code 720.111(a).

f) The placement of any liquid that is not a hazardous waste in a landfill is prohibited. (See 35 Ill. Adm. Code 729.311.)

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT

Section 725.505 Special Requirements for Ignitable or Reactive Wastes

Ignitable or reactive waste must not be placed in a treatment process or equipment unless either

of the following conditions exists:

a) The waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that both of the following conditions are fulfilled:

1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code~~Section~~ 721.121 or 721.123, and

2) Section 725.117(b) is complied with; or

b) The waste is treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART W: DRIP PADS

Section 725.541 Assessment of Existing Drip Pad Integrity

a) For each existing drip pad, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this Subpart W, except the requirements for liners and leak detection systems of Section 725.543(b). No later than June 6, 1991, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a~~an independent,~~ qualified Professional Engineer~~registered professional engineer~~ that attests to the results of the evaluation. The assessment must be reviewed, updated, and re-certified annually until all upgrades, repairs, or modifications necessary to achieve compliance with all of the standards of Section 725.543 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of Section 725.543, except the standards for liners and leak detection systems specified in Section 725.543(b).

b) The owner or operator must develop a written plan for upgrading, repairing and modifying the drip pad to meet the requirements of Section 725.543(b) and submit the plan to the Agency no later than two years before the date that all repairs, upgrades, and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document

compliance with all the requirements of Section 725.543. The plan must be reviewed and certified by a~~an independent~~ qualified Professional Engineer.~~, registered professional engineer. All upgrades, repairs, and modifications must be completed in accordance with the following:~~

~~1) For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must be completed by June 6, 1993, or when the drip pad has reached 15 years of age, whichever comes later.~~

~~2) For existing drip pads for which the age cannot be documented, by June 6, 1999; but, if the age of the facility is greater than seven years, all upgrades, repairs and modifications must be completed by the time the facility reaches 15 years of age or by June 6, 1993, whichever comes later.~~

~~3) The owner or operator may petition the Board for an extension of the deadline in subsection (b)(1) or (b)(2) of this Section.~~

~~A) The owner or operator must file a petition for a RCRA variance, as specified in Subpart B of 35 Ill. Adm. Code 104.~~

~~B) The Board will grant the petition for extension if it finds the following:~~

~~i) The drip pad meets all of the requirements of Section 725.543, except those for liners and leak detection systems specified in Section 725.543(b); and~~

~~ii) That it will continue to adequately protect human health and the environment.~~

c) Upon completion of all repairs and modifications, the owner or operator must submit to the Agency, the as-built drawings for the drip pad, together with a certification by a~~an independent,~~ qualified Professional Engineer~~, registered professional engineer~~ attesting that the drip pad conforms to the drawings.

d) If the drip pad is found to be leaking or unfit for use, the owner or operator must comply with the provisions of Section 725.543(m) or close the drip pad in accordance with Section 725.545.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.543 Design and Operating Requirements

a) Drip pads must fulfill the following requirements:

1) It must not~~Not~~ be constructed of earthen materials, wood, or asphalt, unless the asphalt is structurally supported;

2) It must be~~Be~~ sloped to free-drain to the associated collection system treated wood drippage, rain, other waters, or solutions of drippage and water or other wastes;

3) It must have~~Have~~ a curb or berm around the perimeter;

4) In addition, the drip pad must fulfill the following requirements:

A) It must have~~Have~~ a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second, e.g., existing concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to the existing drip pads and those drip pads for which the owner or operator elects to comply with Section 725.542(b)~~725.542(a)~~ instead of Section 725.542(a)~~725.542(b)~~.

B) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a~~an independent~~ qualified Professional Engineer~~ registered professional engineer~~ that attests to the results of the evaluation. The assessment must be reviewed, updated, and recertified annually. The evaluation must document the extent to which the

drip pad meets the design and operating standards of this Section, except for in subsection (b) of this Section.

5) It must be~~Be~~ of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of installation, and the stress of daily operations, e.g., variable and moving loads such as vehicle traffic, movement of wood, etc.

BOARD NOTE: In judging the structural integrity requirement of this subsection (a), the Agency should generally consider applicable standards established by professional organizations generally recognized by the industry, including ACI 318-83 (Building Code Requirements for Reinforced Concrete) or ASTM C 94-90 (Standard Specification for Ready-Mixed Concrete), incorporated by reference in 35 Ill. Adm. Code 720.111(a).

b) If an owner or operator elects to comply with Section 725.542(a)~~725.542(b)~~ instead of Section 725.542(b)~~725.542(a)~~, the drip pad must have the following features:

1) A synthetic liner installed below the drip pad that is designed, constructed, and installed to prevent leakage from the drip pad into the adjacent subsurface soil or groundwater or surface water at any time during the active life (including the closure period) of the drip pad. The liner must be constructed of materials that will prevent waste from being absorbed into the liner and to prevent releases into the adjacent subsurface soil or groundwater or surface water during the active life of the facility. The liner must be constructed as follows:

A) It must be constructed~~Constructed~~ of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or drip pad leakage to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from vehicular traffic on the drip pad);

B) It must be placed~~Placed~~ upon a foundation or base capable of providing support to the liner and resistance to pressure gradients

above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

C) It must be installed~~Installed~~ to cover all surrounding earth that could come in contact with the waste or leakage; and

2) A leakage detection system immediately above the liner that is designed, constructed, maintained, and operated to detect leakage from the drip pad. The leakage detection system must be constructed as follows:

A) It must be constructed~~Constructed~~ of materials that fulfill the following requirements:

i) They are chemically resistant to the waste managed in the drip pad and the leakage that might be generated; and

ii) They are of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying materials and by any equipment used at the drip pad; and

B) It must be designed~~Designed~~ and operated to function without clogging through the scheduled closure of the drip pad; and

C) It must be designed~~Designed~~ so that it will detect the failure of the drip pad or the presence of a release of hazardous waste or accumulated liquid at the earliest practicable time.

3) A leakage collection system immediately above the liner that is designed, constructed, maintained, and operated to collect leakage from the drip pad such that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed must be documented in the operating log.

c) Drip pads must be maintained such that they remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad.

BOARD NOTE: See subsection (m) of this Section for remedial action required if deterioration or leakage is detected.

d) The drip pad and associated collection system must be designed and operated to convey, drain and collect liquid resulting from drippage or precipitation in order to prevent run-off.

e) Unless the drip pad is protected by a structure, as described in Section 725.540(b), the owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a 24-hour, 25-year storm, unless the system has sufficient excess capacity to contain any run-on that might enter the system.

f) Unless the drip pad is protected by a structure or cover, as described in Section 725.540(b), the owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

g) The drip pad must be evaluated to determine that it meets the requirements of subsections (a) through (f) of this Section. The owner or operator must obtain a statement from a~~an independent,~~ qualified, Professional Engineer~~registered professional engineer~~ certifying that the drip pad design meets the requirements of this Section.

h) Drippage and accumulated precipitation must be removed from the associated collection system as necessary to prevent overflow onto the drip pad.

i) The drip pad surface must be cleaned thoroughly at least once every seven days using an appropriate and effective cleaning technique, including but not limited to, rinsing, washing with detergents or other appropriate solvents, or steam cleaning, with residues being properly managed, such that accumulated residues of hazardous waste or other materials are removed as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document, in the facility's operating log, the date and time of each cleaning and the cleaning procedure.

j) Drip pads must be operated and maintained in a manner to minimize tracking of hazardous waste or hazardous waste constituents off the drip pad as a result of activities by personnel or equipment.

k) After being removed from the treatment vessel, treated wood from pressure and non-pressure processes must be held on the drip pad until drippage has ceased. The owner or operator must maintain records sufficient to document that all treated wood is held on the pad, in accordance with this Section, following treatment.

l) Collection and holding units associated with run-on and run-off control systems must be emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system.

m) Throughout the active life of the drip pad, if the owner or operator detects a condition that may have caused or has caused a release of hazardous waste, the condition must be repaired within a reasonably prompt period of time following discovery, in accordance with the following procedures:

1) Upon detection of a condition that may have caused or has caused a release of hazardous waste (e.g., upon detection of leakage in the leak detection system), the owner or operator must perform the following acts:

A) It must enter~~Enter~~ a record of the discovery in the facility operating log;

B) It must immediately~~Immediately~~ remove from service the portion of the drip pad affected by the condition;

C) It must determine~~Determine~~ what steps must be taken to repair the drip pad, clean up any leakage from below the drip pad, and establish a schedule for accomplishing the clean up and repairs;

D) Within 24 hours after discovery of the condition, the owner or operator must notify the Agency of the condition and, within 10 working days, provide written notice to the Agency with a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

2) The Agency must: review the information submitted; make a determination regarding whether the pad must be removed from service completely or partially until repairs and clean up are complete; and notify

the owner or operator of the determination and the underlying rationale in writing.

3) Upon completing all repairs and clean up, the owner or operator must notify the Agency in writing and provide a certification, signed by an independent, qualified, registered professional engineer, that the repairs and clean up have been completed according to the written plan submitted in accordance with subsection (m)(1)(D) of this Section.

n) The owner or operator must maintain, as part of the facility operating log, documentation of past operating and waste handling practices. This must include identification of preservative formulations used in the past, a description of drippage management practices and a description of treated wood storage and handling practices.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.544 Inspections

a) During construction or installation, liners and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation, liners must be inspected and certified as meeting the requirements of Section 725.543 by a~~an independent,~~ qualified Professional Engineer~~, registered professional engineer~~. This~~The~~ certification must be maintained at the facility as part of the facility operating record. After installation, liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters.

b) While a drip pad is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

1) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

2) The presence of leakage in and proper functioning of leak detection system.

3) Deterioration or cracking of the drip pad surface.

BOARD NOTE: See Section 725.543(m) for remedial action required if deterioration or leakage is detected.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section 725.961 Percent Leakage Alternative for Valves

a) An owner or operator subject to the requirements of Section 725.957 may elect to have all valves within a hazardous waste management unit comply with an alternative standard that allows no greater than two percent of the valves to leak.

b) The following requirements must be met if an owner or operator decides to comply with the alternative standard of allowing two percent of valves to leak:

~~1) An owner or operator must notify the Agency that the owner or operator has elected to comply with the requirements of this Section;~~

1~~2~~) A performance test as specified in subsection (c) of this Section must be conducted initially upon designation, annually and other times as specified by the Agency pursuant to Section 725.950(e); and

2~~3~~) If a valve leak is detected it must be repaired in accordance with Section 725.957(d) and (e).

c) Performance tests must be conducted in the following manner:

1) All valves subject to the requirements in Section 725.957 within the hazardous waste management unit must be monitored within 1 week by the methods specified in Section 725.963(b);

2) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected; and

3) The leak percentage must be determined by dividing the number of valves subject to the requirements in Section 725.957 for which leaks are detected by the total number of valves subject to the requirements in

Section 725.957 within the hazardous waste management unit.

~~d) If an owner or operator decides no longer to comply with this Section, the owner or operator must notify the Agency in writing that the work practice standard described in Section 725.957(a) through (e) will be followed.~~

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.962 Skip Period Alternative for Valves

~~a) Election.~~

a~~1~~) An owner or operator subject to the requirements of Section 725.957 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in subsections (b)(2) and (b)(3) of this Section.

~~2) An owner or operator must notify the Agency before implementing one of the alternative work practices.~~

b) Reduced Monitoring.

1) An owner or operator must comply with the requirements for valves, as described in Section 725.957, except as described in subsections (b)(2) and (b)(3) of this Section.

2) After two consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than two percent, an owner or operator may begin to skip one of the quarterly leak detection periods (i.e., the owner or operator may monitor for leaks once every six months) for the valves subject to the requirements in Section 725.957.

3) After five consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than two percent, an owner or operator may begin to skip three of the quarterly leak detection periods (i.e., the owner or operator may monitor for leaks once every year) for the valves subject to the requirements in Section 725.957.

4) If the percentage of valves leaking is greater than two percent, the owner

or operator must monitor monthly in compliance with the requirements in Section 725.957, but may again elect to use this Section after meeting the requirements of Section 725.957(c)(1).

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

Section 725.990 Recordkeeping Requirements

a) Each owner or operator of a facility subject to the requirements in this Subpart CC must record and maintain the information specified in subsections (b) through (j) of this Section, as applicable to the facility. Except for air emission control equipment design documentation and information required by subsection (j) of this Section, records required by this Section must be maintained in the operating record for a minimum of three years. Air emission control equipment design documentation must be maintained in the operating record until the air emission control equipment is replaced or is otherwise no longer in service. Information required by subsections (i) and (j) of this Section must be maintained in the operating record for as long as the waste management unit is not using air emission controls specified in Sections 725.985 through 725.988, in accordance with the conditions specified in Section 725.980(d) or (b)(7), respectively.

b) The owner or operator of a tank using air emission controls in accordance with the requirements of Section 725.985 must prepare and maintain records for the tank that include the following information:

1) For each tank using air emission controls in accordance with the requirements of Section 725.985 of this Subpart CC, the owner or operator must record the following information:

A) A tank identification number (or other unique identification description as selected by the owner or operator); and

B) A record for each inspection required by Section 725.985 that includes the following information:

i) Date inspection was conducted; and

ii) For each defect detected during the inspection, the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of Section 725.985, the owner or operator must also record the reason for the delay and the date that completion of repair of the defect is expected; and

2) In addition to the information required by subsection (b)(1) of this Section, the owner or operator must record the following information, as applicable to the tank:

A) The owner or operator using a fixed roof to comply with the Tank Level 1 control requirements specified in Section 725.985(c) must prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of Section 725.985(c). The records must include the date and time the samples were collected, the analysis method used, and the analysis results;

B) The owner or operator using an internal floating roof to comply with the Tank Level 2 control requirements specified in Section 725.985(e) must prepare and maintain documentation describing the floating roof design;

C) Owners and operators using an external floating roof to comply with the Tank Level 2 control requirements specified in Section 725.985(f) must prepare and maintain the following records:

i) Documentation describing the floating roof design and the dimensions of the tank; and

ii) Records for each seal gap inspection required by Section 725.985(f)(3) describing the results of the seal gap measurements. The records must include the date that the measurements were performed, the raw data obtained for

the measurements, and the calculations of the total gap surface area. In the event that the seal gap measurements do not conform to the specifications in Section 725.985(f)(1), the records must include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary.

D) Each owner or operator using an enclosure to comply with the Tank Level 2 control requirements specified in Section 725.985(i) must prepare and maintain the following records:

i) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T−Criteria for and Verification of a Permanent or Temporary Total Enclosure" under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and

ii) Records required for the closed-vent system and control device in accordance with the requirements of subsection (e) of this Section.

c) The owner or operator of a surface impoundment using air emission controls in accordance with the requirements of Section 725.986 must prepare and maintain records for the surface impoundment that include the following information:

1) A surface impoundment identification number (or other unique identification description as selected by the owner or operator);

2) Documentation describing the floating membrane cover or cover design, as applicable to the surface impoundment, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in Section 725.986(c);

3) A record for each inspection required by Section 725.986 that includes the

following information:

A) Date inspection was conducted; and

B) For each defect detected during the inspection the following information: the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of Section 725.986(f), the owner or operator must also record the reason for the delay and the date that completion of repair of the defect is expected; and

4) For a surface impoundment equipped with a cover and vented through a closed-vent system to a control device, the owner or operator must prepare and maintain the records specified in subsection (e) of this Section.

d) The owner or operator of containers using Container Level 3 air emission controls in accordance with the requirements of Section 725.987 must prepare and maintain records that include the following information:

1) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T − Criteria for and Verification of a Permanent or Temporary Total Enclosure" under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency); and

2) Records required for the closed-vent system and control device in accordance with the requirements of subsection (e) of this Section.

e) The owner or operator using a closed-vent system and control device in accordance with the requirements of Section 725.988 must prepare and maintain records that include the following information:

1) Documentation for the closed-vent system and control device that includes the following:

A) Certification that is signed and dated by the owner or operator stating that the control device is designed to operate at the

performance level documented by a design analysis as specified in subsection (e)(1)(B) of this Section or by performance tests as specified in subsection (e)(1)(C) of this Section when the tank, surface impoundment, or container is or would be operating at capacity or the highest level reasonably expected to occur;

B) If a design analysis is used, then design documentation, as specified in Section 725.935(b)(4). The documentation must include information prepared by the owner or operator or provided by the control device manufacturer or vendor that describes the control device design in accordance with Section 725.935(b)(4)(C) and certification by the owner or operator that the control equipment meets the applicable specifications;

C) If performance tests are used, then a performance test plan as specified in Section 725.935(b)(3) and all test results;

D) Information as required by Section 725.935(c)(1) and (c)(2), as applicable;

E) An owner or operator must record, on a semiannual basis, the following information for those planned routine maintenance operations that would require the control device not to meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable:

i) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next six-month period. This description must include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods; and

ii) A description of the planned routine maintenance that was performed for the control device during the previous six-month period. This description must include the type of maintenance performed and the total number of hours during those six months that the control device did not meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable, due to planned routine

maintenance;

F) An owner or operator must record the following information for those unexpected control device system malfunctions that would require the control device not to meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable:

i) The occurrence and duration of each malfunction of the control device system;

ii) The duration of each period during a malfunction when gases, vapors, or fumes are vented from the waste management unit through the closed-vent system to the control device while the control device is not properly functioning; and

iii) Actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation; and

G) Records of the management of carbon removed from a carbon adsorption system conducted in accordance with Section 725.988(c)(3)(B).

f) The owner or operator of a tank, surface impoundment, or container exempted from standards in accordance with the provisions of Section 725.983(c) must prepare and maintain the following records, as applicable:

1) For tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in Section 725.983(c)(1) or 725.983(c)(2)(A)~~725.984(c)(2)(A)~~ through (c)(2)(F), the owner or operator must record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator must record the date, time, and location that each waste sample is collected in accordance with the applicable requirements of Section 725.984; and

2) For tanks, surface impoundments, or containers exempted under the provisions of Section 725.983(c)(2)(G) or (c)(2)(H), the owner or operator must record the identification number for the incinerator, boiler, or industrial furnace in which the hazardous waste is treated.

g) An owner or operator designating a cover as "unsafe to inspect and monitor" pursuant to Section 725.985(l) must record in a log that is kept in the facility operating record the following information: the identification numbers for waste management units with covers that are designated as "unsafe to inspect and monitor," the explanation for each cover stating why the cover is unsafe to inspect and monitor, and the plan and schedule for inspecting and monitoring each cover.

h) The owner or operator of a facility that is subject to this Subpart CC and to the control device standards in federal subpart VV of 40 CFR 60 (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), or subpart V of 40 CFR 61 (National Emission Standard for Equipment Leaks (Fugitive Emission Sources), each incorporated by reference in 35 Ill. Adm. Code 270.111, may elect to demonstrate compliance with the applicable Sections of this Subpart by documentation either pursuant to this Subpart CC, or pursuant to the provisions of subpart VV of 40 CFR 60 or subpart V of 40 CFR 61, to the extent that the documentation required by 40 CFR 60 or 61 duplicates the documentation required by this Section.

i) For each tank or container not using air emission controls specified in Sections 725.985 through 725.988 in accordance with the conditions specified in Section 725.980(d), the owner or operator must record and maintain the following information:

1) A list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in Section 725.980(d)(1);

2) A description of how the hazardous waste containing the organic peroxide compounds identified pursuant to subsection (i)(1) are managed at the facility in tanks and containers. This description must include the following information:

A) For the tanks used at the facility to manage this hazardous waste, sufficient information must be provided to describe each tank: a facility identification number for the tank, the purpose and

placement of this tank in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste managed in the tanks; and

B) For containers used at the facility to manage this hazardous waste, sufficient information must be provided to describe the following for each container: a facility identification number for the container or group of containers; the purpose and placement of this container or group of containers in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste handled in the containers; and

3) An explanation of why managing the hazardous waste containing the organic peroxide compounds identified pursuant to subsection (i)(1) of this Section in the tanks or containers identified pursuant to subsection (i)(2) of this Section would create an undue safety hazard if the air emission controls specified in Sections 725.985 through 725.988 were installed and operated on these waste management units. This explanation must include the following information:

A) For tanks used at the facility to manage this hazardous waste, sufficient information must be provided to explain: how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the tanks; and why installation of safety devices on the required air emission controls, as allowed under this Subpart CC, would not address those situations in which evacuation of tanks equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides; and

B) For containers used at the facility to manage this hazardous waste, sufficient information must be provided to explain: how use of the required air emission controls on the containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during management of this hazardous waste in the containers; and why installation of safety devices on the required air emission controls, as allowed under this

Subpart CC, would not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

j) For each hazardous waste management unit not using air emission controls specified in Sections 725.985 through 725.988 in accordance with the provisions of Section 725.980(b)(7), the owner and operator must record and maintain the following information:

1) The certification that the waste management unit is equipped with and operating air emission controls in accordance with the requirements of an applicable federal Clean Air Act regulation codified under 40 CFR 60, 61, or 63; and

2) An identification of the specific federal requirements codified under 40 CFR 60, 61, or 63 with which the waste management unit is in compliance.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

SUBPART DD: CONTAINMENT BUILDINGS

Section 725.1100 Applicability

The requirements of this Subpart DD apply to owners or operators that store or treat hazardous waste in units designed and operated under Section 725.1101. ~~These provisions will become effective on February 18, 1993.~~ The owner or operator is not subject to the definition of land disposal in 35 Ill. Adm. Code 728.102 provided that the following is true of the unit:

a) It is a completely enclosed, self-supporting structure that is designed and constructed of manmade materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to any of the following causes:

1) Pressure gradients;

2) Settlement, compression, or uplift;

3) Physical contact with the hazardous wastes to which they are exposed;

4) Climatic conditions; or

5) The stresses of daily operation including the movement of heavy equipment within the unit and contact of such equipment with containment walls;

b) It has a primary barrier that is designed to be sufficiently durable to withstand the movement of personnel, wastes, and handling equipment within the unit;

c) If used to manage liquids, the unit has the following design features:

1) A primary barrier designed and constructed of materials to prevent migration of hazardous constituents into the barrier;

2) A liquid collection system designed and constructed of materials to minimize the accumulation of liquid on the primary barrier; and

3) A secondary containment system designed and constructed of materials to prevent migration of hazardous constituents into the barrier, with a leak detection and liquid collection system capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest possible time, unless the unit has been granted a variance from the secondary containment system requirements under subsection 725.1101(b)(4);

d) It has controls sufficient to prevent~~permit~~ fugitive dust emissions to meet the no visible emission standard in subsection 725.1101(c)(1)(D); and

e) It is designed and operated to ensure containment and prevent the tracking of materials from the unit by personnel or equipment.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.1101 Design and Operating Standards

a) All containment buildings must comply with the following design and operating standards:

1) The containment building must be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g. precipitation, wind, run on) and to assure containment of managed wastes;

2) The floor and containment walls of the unit, including the secondary containment system if required under subsection (b) of this Section, must be designed and constructed of materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls. The unit must be designed so that it has sufficient structural strength to prevent collapse or other failure. All surfaces to be in contact with hazardous wastes must be chemically compatible with those wastes. The containment building must meet the structural integrity requirements established by professional organizations generally recognized by the industry such as the American Concrete Institute (~~[~~ACI)~~]~~ and the American Society of Testing Materials (~~[~~ASTM)~~]~~. If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength requirement may be made for light-weight doors and windows that meet these criteria:

   A) They provide an effective barrier against fugitive dust emissions under subsection (c)(1)(D) of this Section; and

   B) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings;

3) Incompatible hazardous wastes or treatment reagents must not be placed in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail; and

4) A containment building must have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the physical and chemical characteristics of the waste to be managed.

b) For a containment building used to manage hazardous wastes containing free liquids or treated with free liquids (the presence of which is determined by the paint filter test, a visual examination, or other appropriate means), the owner or operator must include the following design features:

1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier (e.g., a geomembrane covered by a concrete wear surface).

2) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building:

A) The primary barrier must be sloped to drain liquids to the associated collection system; and

B) Liquids and waste must be collected and removed to minimize hydraulic head on the containment system at the earliest practicable time.

3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.

A) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum, as follows:

i) It is constructed with a bottom slope of 1 percent or more; and

ii) It is constructed of a granular drainage material with a hydraulic conductivity of 1×10^{-2} cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-5} m^2/sec or more.

B) If treatment is to be conducted in the building, an area in which

such treatment will be conducted must be designed to prevent the release of liquids, wet materials, or liquid aerosols to other portions of the building.

C) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of Section 725.293(e)(1)~~725.293(d)(1)~~. In addition, the containment building must meet the requirements of subsections 725.293(b) and (c) to be an acceptable secondary containment system for a tank.)

4) For existing units other than 90-day generator units, USEPA may delay the secondary containment requirement for up to two years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this Subpart DD. In making this demonstration, the owner or operator must do each of the following:

A) Provide written notice to USEPA of their request by November 16, 1992. This notification must describe the unit and its operating practices with specific reference to the performance of existing systems, and specific plans for retrofitting the unit with secondary containment;

B) Respond to any comments from USEPA on these plans within 30 days; and

C) Fulfill the terms of the revised plans, if such plans are approved by USEPA.

c) Owners or operators of all containment buildings must do each of the following:

1) It must use~~Use~~ controls and practice to ensure containment of the

hazardous waste within the unit, and at a minimum do each of the following:

A) It must maintain~~Maintain~~ the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;

B) It must maintain~~Maintain~~ the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;

C) It must take~~Take~~ measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area must be designated to decontaminate equipment and any rinsate must be collected and properly managed; and

D) It must take~~Take~~ measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b)). In addition, all associated particulate collection devices (e.g., fabric filter, electrostatic precipitator) must be operated and maintained with sound air pollution control practices (see 40 CFR 60 for guidance). This state of no visible emissions must be maintained effectively at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit;

BOARD NOTE: At 40 CFR 264.1101(c)(1)(iv)~~ (2004)~~, USEPA cites "40 CFR part 60, subpart 292." At 57 Fed. Reg. 37217 (August 18, 1992), USEPA repeats this citation in the preamble discussion of adoption of the rules. No such provision exists in the Code of Federal Regulations. The Board has chosen to use the general citation: "40 CFR 60."

2) It must obtain and keep on-site a~~Obtain~~ certification by a qualified

Professional Engineer~~registered professional engineer (PE)~~ that the containment building design meets the requirements of subsections (a) through (c) of this Section~~. For units placed into operation prior to February 18, 1993, this certification must be placed in the facility's operating record (on-site files for generators that are not formally required to have operating records) no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit~~;

3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, it must repair the condition promptly in accordance with the following procedures~~. In addition, however, the owner or operator must do the following~~:

A) Upon detection of a condition that has caused to a release of hazardous wastes (e.g., upon detection of leakage from the primary barrier) the owner or operator must do the following:

i) Enter a record of the discovery in the facility operating record;

ii) Immediately remove the portion of the containment building affected by the condition from service;

iii) Determine what steps must be taken to repair the containment building, remove any leakage from the secondary collection system, and establish a schedule for accomplishing the cleanup and repairs; and

iv) Within seven days after the discovery of the condition, notify the Agency in writing of the condition, and within 14 working days, provide a written notice to the Agency with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work;

B) The Agency must review the information submitted, make a determination regarding whether the containment building must be removed from service completely or partially until repairs and

cleanup are complete, and notify the owner or operator of the determination and the underlying rationale in writing; and

C) Upon completing all repairs and cleanup the owner and operator must notify the Agency in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with subsection (c)(3)(A)(iv) of this Section; and

4) It must inspect~~Inspect~~ and record in the facility's operating record~~,~~ at least once every seven days, except for the owner or operator of a Performance Track member facility, which must inspect the record at least once each month after approval of the Agency, data gathered from monitoring ~~equipment~~ and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste. To apply for a reduced inspection frequency, the owner or operator of a Performance Track member facility must follow the procedures described in Section 725.115(b)(5).

d) For a containment building~~buildings~~ that contains~~contain~~ areas both with and without secondary containment, the owner or operator must do the following:

1) Design and operate each area in accordance with the requirements enumerated in subsections (a) through (c) of this Section;

2) Take measures to prevent the release of liquids or wet materials into areas without secondary containment; and

3) Maintain in the facility's operating log a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

e) Notwithstanding any other provision of this Subpart DD, the Agency must, in writing, allow the use of alternatives to the requirements for~~not require~~ secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator has adequately demonstrated~~demonstrates~~ that the only free liquids in the unit are limited

amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system.

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

Section 725.APPENDIX F Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

Compound name	CAS No.
Acetaldol	107-89-1
Acetamide	60-35-5
2-Acetylaminofluorene	53-96-3
3-Acetyl-5-hydroxypiperidine	
3-Acetylpiperidine	618-42-8
1-Acetyl-2-thiourea	591-08-2
Acrylamide	79-06-1
Acrylic acid	79-10-7
Adenine	73-24-5
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alachlor	15972-60-8
Aldicarb	116-06-3
Ametryn	834-12-8
4-Aminobiphenyl	92-67-1
4-Aminopyridine	504-24-5
Aniline	62-53-3
o-Anisidine	90-04-0
Anthraquinone	84-65-1
Atrazine	1912-24-9
Benzenearsonic acid	98-05-5
Benzenesulfonic acid	98-11-3
Benzidine	92-87-5
Benzo(a)anthracene	56-55-3
Benzo(k)fluoranthene	207-08-9
Benzoic acid	65-85-0
Benzo(g,h,i)perylene	191-24-2
Benzo(a)pyrene	50-32-8
Benzyl alcohol	100-51-6
γ-BHC	58-89-9
Bis(2-ethylhexyl)phthalate	117-81-7
Bromochloromethyl acetate	
Bromoxynil (3,5-Dibromo-4-hydroxybenzonitrile)	1689-84-5

Butyric acid	107-92-6
Caprolactam (hexahydro-2H-azepin-2-one)	105-60-2
Catechol(o-dihydroxybenzene)	120-80-9
Cellulose	9004-34-6
Cell wall	
Chlorhydrin (3-Chloro-1,2-propanediol)	96-24-2
Chloroacetic acid	79-11-8
2-Chloroacetophenone	93-76-5
p-Chloroaniline	106-47-8
p-Chlorobenzophenone	134-85-0
Chlorobenzilate	510-15-6
p-Chloro-m-cresol (6-chloro-m-cresol)	59-50-7
3-Chloro-2,5-diketopyrrolidine	
Chloro-1,2-ethane diol	
4-Chlorophenol	106-48-9
Chlorophenol polymers (2-chlorophenol & 4-chlorophenol)	95-57-8 & 106-48-9
1-(o-Chlorophenyl)thiourea	5344-82-1
Chrysene	218-01-9
Citric acid	77-92-9
Creosote	8001-58-9
m-Cresol	108-39-4
o-Cresol	95-48-7
p-Cresol	106-44-5
Cresol (mixed isomers)	1319-77-3
4-Cumylphenol	27576-86
Cyanide	57-12-5
4-Cyanomethyl benzoate	
Diazinon	333-41-5
Dibenzo(a,h)anthracene	53-70-3
Dibutylphthalate	84-74-2
2,5-Dichloroaniline (N,N'-dichloroaniline)	95-82-9
2,6-Dichlorobenzonitrile	1194-65-6
2,6-Dichloro-4-nitroaniline	99-30-9
2,5-Dichlorophenol	333-41-5
3,4-Dichlorotetrahydrofuran	3511-19
Dichlorvos (DDVP)	62-73-7
Diethanolamine	111-42-2
N,N-Diethylaniline	91-66-7
Diethylene glycol	111-46-6

Diethylene glycol dimethyl ether (dimethyl Carbitol)	111-96-6
Diethylene glycol monobutyl ether (butyl Carbitol)	112-34-5
Diethylene glycol monoethyl ether acetate (Carbitol acetate)	112-15-2
Diethylene glycol monoethyl ether (Carbitol Cellosolve)	111-90-0
Diethylene glycol monomethyl ether (methyl Carbitol)	111-77-3
N,N'-Diethylhydrazine	1615-80-1
Diethyl(4-methylumbelliferyl)thionophosphate	299-45-6
Diethylphosphorothioate	126-75-0
N,N'-Diethylpropionamide	15299-99-7
Dimethoate	60-51-5
2,3-Dimethoxystrychnidin-10-one	357-57-3
4-Dimethylaminoazobenzene	60-11-7
7,12-Dimethylbenz(a)anthracene	57-97-6
3,3-Dimethylbenzidine	119-93-7
Dimethylcarbamoyl chloride	79-44-7
Dimethyldisulfide	624-92-0
Dimethylformamide	68-12-2
1,1-Dimethylhydrazine	57-14-7
Dimethylphthalate	131-11-3
Dimethylsulfone	67-71-0
Dimethylsulfoxide	67-68-5
4,6-Dinitro-o-cresol	534-52-1
1,2-Diphenylhydrazine	122-66-7
Dipropylene glycol (1,1'-oxydi-2-propanol)	110-98-5
Endrin	72-20-8
Epinephrine	51-43-4
mono-Ethanolamine	141-43-5
Ethyl carbamate (urethane)	51-79-6
Ethylene glycol	107-21-1
Ethylene glycol monobutyl ether (butyl Cellosolve)	111-76-2
Ethylene glycol monoethyl ether (Cellosolve)	110-80-5
Ethylene glycol monoethyl ether acetate (Cellosolve acetate)	111-15-9
Ethylene glycol monomethyl ether (methyl Cellosolve)	109-86-4
Ethylene glycol monophenyl ether (phenyl Cellosolve)	122-99-6
Ethylene glycol monopropyl ether (propyl Cellosolve)	2807-30-9
Ethylene thiourea (2-imidazolidinethione)	96-45-7~~9-64-57~~
4-Ethylmorpholine	100-74-3
3-Ethylphenol	620-17-7
Fluoroacetic acid, sodium salt	62-74-8

Formaldehyde	50-00-0
Formamide	75-12-7
Formic acid	64-18-6
Fumaric acid	110-17-8
Glutaric acid	110-94-1
Glycerin (Glycerol)	56-81-5
Glycidol	556-52-5
Glycinamide	598-41-4
Glyphosate	1071-83-6
Guthion	86-50-0
Hexamethylene-1,6-diisocyanate (1,6-diisocyanatohexane)	822-06-0
Hexamethyl phosphoramide	680-31-9
Hexanoic acid	142-62-1
Hydrazine	302-01-2
Hydrocyanic acid	74-90-8
Hydroquinone	123-31-9
Hydroxy-2-propionitrile (hydracrylonitrile)	109-78-4
Indeno(1,2,3-cd)pyrene	193-39-5
Lead acetate	301-04-2
Lead subacetate (lead acetate, monobasic)	1335-32-6
Leucine	61-90-5
Malathion	121-75-5
Maleic acid	110-16-7
Maleic anhydride	108-31-6
Mesityl oxide	141-79-7
Methane sulfonic acid	75-75-2
Methomyl	16752-77-5
p-Methoxyphenol	150-76-5
Methylacrylate	96-33-3
4,4'-Methylene-bis-(2-chloroaniline)	101-14-4
4,4'-Methylenediphenyl diisocyanate (diphenyl methane diisocyanate)	101-68-8
4,4'-Methylenedianiline	101-77-9
Methylene diphenylamine (MDA)	
5-Methylfurfural	620-02-0
Methylhydrazine	60-34-4
Methyliminoacetic acid	
Methyl methane sulfonate	66-27-3
1-Methyl-2-methoxyaziridine	
Methylparathion	298-00-0

Methyl sulfuric acid (sulfuric acid, dimethyl ester)	77-78-1
4-Methylthiophenol	106-45-6
Monomethylformamide (N-methylformamide)	123-39-7
Nabam	142-59-6
α-Naphthol	90-15-3
β-Naphthol	135-19-3
α-Naphthylamine	134-32-7
β-Naphthylamine	91-59-8
Neopentyl glycol	126-30-7
Niacinamide	98-92-0
o-Nitroaniline	88-74-4
Nitroglycerin	55-63-0
2-Nitrophenol	88-75-5
4-Nitrophenol	100-02-7
N-Nitrosodimethylamine	62-75-9
Nitrosoguanidine	674-81-7
N-Nitroso-n-methylurea	684-93-5
N-Nitrosomorpholine (4-nitrosomorpholine)	59-89-2
Oxalic acid	144-62-7
Parathion	56-38-2
Pentaerythritol	115-77-5
Phenacetin	62-44-2
Phenol	108-95-2
Phenylacetic acid	103-82-2
m-Phenylene diamine	108-45-2
o-Phenylene diamine	95-54-5
p-Phenylene diamine	106-50-3
Phenyl mercuric acetate	62-38-4
Phorate	298-02-2
Phthalic anhydride	85-44-9
α-Picoline (2-methyl pyridine)	109-06-8
1,3-Propane sulfone	1120-71-4
β-Propiolactone	57-57-8
Proporur (Baygon)	
Propylene glycol	57-55-6
Pyrene	129-00-0
Pyridinium bromide	39416-48-3
Quinoline	91-22-5
Quinone (p-benzoquinone)	106-51-4

Resorcinol	108-46-3
Simazine	122-34-9
Sodium acetate	127-09-3
Sodium formate	141-53-7
Strychnine	57-24-9
Succinic acid	110-15-6
Succinimide	123-56-8
Sulfanilic acid	121-47-1
Terephthalic acid	100-21-0
Tetraethyldithiopyrophosphate	3689-24-5
Tetraethylenepentamine	112-57-2
Thiofanox	39196-18-4
Thiosemicarbazide	79-19-6
2,4-Toluenediamine	95-80-7
2,6-Toluenediamine	823-40-5
3,4-Toluenediamine	496-72-0
2,4-Toluene diisocyanate	584-84-9
p-Toluic acid	99-94-5
m-Toluidine	108-44-1
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1
Triethanolamine	102-71-6
Triethylene glycol dimethyl ether	
Tripropylene glycol	24800-44-0
Warfarin	81-81-2
3,4-Xylenol (3,4-dimethylphenol)	95-65-8

(Source: Amended at 32 Ill. Reg. 12566, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities

2) Code Citation: 35 Ill. Adm. Code 726

3)

Section Numbers:	Adopted Action:
726.180	Amended
726.200	Amended
726.202	Amended
726.203	Amended
726.205	Amended
726.206	Amended
726.207	Amended
726.209	Amended
726.APPENDIX A	Amended
726.APPENDIX C	Amended
726.APPENDIX D	Amended
726.APPENDIX E	Amended

4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27

5) Effective Date of Amendments: July 14, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendments, a copy of the Board's opinion and order adopted June 5, 2008 in docket R07-5/R07-14 (consolidated), 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: April 11, 2008; 32 Ill. Reg. 5605

10) Has JCAR issued a statement of objection to this rulemaking? No

11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated March 20, 2008, in docket R07-

5/R07-14 (consolidated). Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

Two differences between the proposed and final versions of the amendments are the addition of amendments to Appendices A and C to the final amendments that did not appear in the April 11, 2008 Notice of Proposed Amendments. The Board felt it necessary to correct the table headings in the tables in both appendices to complete all known corrections to the text of Part 726. The corrections are minor and non-substantive. The corrections to the table headings in Appendix A include a change to title case and uniform presentation for the subheading descriptive information. The corrections to Appendix A were not included in the Board's March 20, 2008 opinion and order in this matter. The single correction to the heading in Appendix C changed "Gas" to "Chlorine Gas" in the second column. The Board did include this correction to Appendix C in the March 20, 2008 opinion and order, but it did not appear in the April 11, 2008 Notice of Proposed Amendments through inadvertent error.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace any emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of amendments: The amendments to Part 726 are a single segment of the consolidated docket R07-5/R07-14 rulemaking that also affects 35 Ill. Adm. Code 703, 720, 721, 722, 723, 724, 725, 727, 728, and 739, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R07-5/R07-14 rulemaking in this *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 June 5, 2008, proposing amendments in consolidated docket R07-5/R07-14, which opinion and order is available from the address below.

Specifically, the amendments to Part 726 implement segments of the federal amendments of April 4, 2006 and July 14, 2006. The amendments implement the regulatory burden reduction amendments, and include various USEPA corrections.

Tables appear in the Board's opinion and order of June 5, 2008 in

docket R07-5/R07-14 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 5, 2008 opinion and order in docket R07-5/R07-14 (consolidated).

16) Information and questions regarding these adopted amendments shall be adopted to:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6924

Please reference consolidated docket R07-5/R07-14.

Request copies of the Board's opinion and order of June 5, 2008 at 312/814-3620. Alternatively, you may 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:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

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AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R85-22 at 10 Ill. Reg. 1162, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14156, effective August 12, 1986; amended in R87-26 at 12 Ill. Reg. 2900, effective January 15, 1988; amended in R89-1 at 13 Ill. Reg. 18606, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14533, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9727, effective June 17, 1991; amended in R91-13 at 16 Ill. Reg. 9858, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5865, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20904, effective November 22, 1993; amended in R94-7 at 18 Ill. Reg. 12500, effective July 29, 1994; amended in R95-6 at 19 Ill. Reg. 10006, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11263, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 754, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 18042, effective September 28, 1998; amended in R99-15 at 23 Ill. Reg. 9482, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9853, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6667, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 4200, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12916, effective July 17, 2003; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3700, effective

February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1096, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12741, effective July 14, 2008.

SUBPART G: SPENT LEAD-ACID BATTERIES BEING RECLAIMED

Section 726.180 Applicability and Requirements

a) Extent of exemption for spent lead-acid batteries from hazardous waste management requirements. If an owner or operator generates, collects, transports, stores, or regenerates lead-acid batteries for reclamation purposes, the owner or operator may be exempt from certain hazardous waste management requirements. Subsections (a)(1) though (a)(5) of this Section indicate which requirements apply to the owner or operator. Alternatively, the owner or operator may choose to manage its spent lead-acid batteries under the "Universal Waste" rule in 35 Ill. Adm. Code 733.

1) If the batteries will be reclaimed through regeneration (such as by electrolyte replacement), the owner or operator is exempt from 35 Ill. Adm. Code 702, 703, 722 through 726 (except for 35 Ill. Adm. Code 722.111), and 728 and the notification requirements of section 3010 of RCRA, but the owner or operator is subject to 35 Ill. Adm. Code 721 and 722.111.

2) If the batteries will be reclaimed other than through regeneration, and the owner or operator generates, collects, or transports the batteries, the owner or operator is exempt from 35 Ill. Adm. Code 702, 703, and 722 through 726 (except for 35 Ill. Adm. Code 722.111), and the notification requirements of section 3010 of RCRA, but the owner or operator is subject to 35 Ill. Adm. Code 721 and 722.111 and applicable provisions of 35 Ill. Adm. Code 728.

3) If the batteries will be reclaimed other than through regeneration, and the owner or operator stores the batteries, but the owner or operator is not the reclaimer, the owner or operator is exempt from 35 Ill. Adm. Code 702, 703, and 722 through 726 (except for 35 Ill. Adm. Code 722.111), and the notification requirements of section 3010 of RCRA, but the owner or operator is subject to 35 Ill. Adm. Code 721 and 722.111 and applicable provisions of 35 Ill. Adm. Code 728.

4) If the batteries will be reclaimed other than through regeneration, and the owner or operator stores the batteries before the owner or operator reclaims them, the owner or operator must comply with Section 726.180(b) and other requirements described in that subsection, and the owner or operator is subject to 35 Ill. Adm. Code 721 and 722.111 and applicable provisions of 35 Ill. Adm. Code 728.

5) If the batteries will be reclaimed other than through regeneration, and the owner or operator does not store the batteries before the owner or operator reclaims them, the owner or operator is exempt from 35 Ill. Adm. Code 702, 703, and 722 through 726 (except for 35 Ill. Adm. Code 722.111), and the notification requirements of section 3010 of RCRA, and the owner or operator is subject to 35 Ill. Adm. Code 721 and 722.111 and applicable provisions of 35 Ill. Adm. Code 728.

b) Exemption for spent lead-acid batteries stored before reclamation other than through regeneration. The requirements of this subsection (b) apply to an owner or operator that stores spent lead-acid batteries before it reclaims them, where the owner or operator does not reclaim them through regeneration. The requirements are slightly different depending on the owner's or operator's RCRA permit status.

1) For an interim status facility, the owner or operator must comply with the following requirements:

A) The notification requirements under Section 3010 of the Resource Conservation and Recovery Act (RCRA);

B) All applicable provisions in Subpart A of 35 Ill. Adm. Code 725;

C) All applicable provisions in Subpart B of 35 Ill. Adm. Code 725, except 35 Ill. Adm. Code 725.113 (waste analysis);

D) All applicable provisions in Subparts C and D of 35 Ill. Adm. Code 725;

E) All applicable provisions in Subpart E of 35 Ill. Adm. Code 725, except 35 Ill. Adm. Code 725.171 and 725.172 (dealing with the use of the manifest and manifest discrepancies);

F) All applicable provisions in Subparts F through L of 35 Ill. Adm. Code 725; and

G) All applicable provisions in 35 Ill. Adm. Code 702 and 703.

2) For a permitted facility, the following requirements:

A) The notification requirements under section 3010 of RCRA;

B) All applicable provisions in Subpart A of 35 Ill. Adm. Code 724;

C) All applicable provisions in Subpart B of 35 Ill. Adm. Code 724, except 35 Ill. Adm. Code 724.113 (waste analysis);

D) All applicable provisions in Subparts C and D of 35 Ill. Adm. Code 724;

E) All applicable provisions in Subpart E of 35 Ill. Adm. Code 724, except 35 Ill. Adm. Code 724.171 or 724.172 (dealing with the use of the manifest and manifest discrepancies);

F) All applicable provisions in Subparts F through L of 35 Ill. Adm. Code 724; and

G) All applicable provisions in 35 Ill. Adm. Code 702 and 703.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

SUBPART H: HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

Section 726.200 Applicability

a) The regulations of this Subpart H apply to hazardous waste burned or processed in a boiler or industrial furnace (BIF) (as defined in 35 Ill. Adm. Code 720.110) irrespective of the purpose of burning or processing, except as provided by subsections (b), (c), (d), (g), and (h) of this Section. In this Subpart H, the term "burn" means burning for energy recovery or destruction or processing for materials recovery or as an ingredient. The emissions standards of Sections

726.204, 726.205, 726.206, and 726.207 apply to facilities operating under interim status or under a RCRA permit, as specified in Sections 726.202 and 726.203.

b) Integration of the MACT standards.

1) Except as provided by subsections(b)(2), (b)(3), and (b)(4) of this Section, the standards of this Part do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 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), by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, pursuant to 40 CFR 63.1207(j) (What are the performance testing requirements?) and 63.1210(d) (What are the notification requirements?), documenting compliance with the requirements of federal subpart EEE of 40 CFR 63. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this Part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2) The following standards continue to apply:

A) If an owner or operator elects to comply with 35 Ill. Adm. Code 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, Section 726.202(e)(1), requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and Section 726.202(e)(2)(C), requiring compliance with the emission standards and operating requirements, during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

B) The closure requirements of Sections 726.202(e)(11) and 726.203(l);

C) The standards for direct transfer of Section 726.211;

D) The standards for regulation of residues of Section 726.212~~726.312~~; and

E) The applicable requirements of Subparts A through H, BB, and CC of 35 Ill. Adm. Code 724 and 725.

3) The owner or operator of a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as 40 CFR 63), that has not elected to comply with the emission standards of 40 CFR 63.1216, 63.1217, and 63.1218, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63), for particulate matter, semivolatile and low volatile metals, and total chlorine, also remains subject to the following requirements of this Part:

A) Section 726.205 (Standards to Control PM);

B) Section 726.206 (Standards to Control Metals Emissions); and

C) Section 726.207 (Standards to Control HCl and Chlorine Gas Emissions).

4) The particulate matter standard of Section 726.205 remains in effect for a boiler that elects to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63).

BOARD NOTE: Sections 9.1 and 39.5 of the Environmental Protection Act [415 ILCS 5/9.1 and 39.5] make the federal MACT standards directly applicable to entities in Illinois and authorize the Agency to issue permits based on the federal standards. In adopting this subsection (b), USEPA stated as follows (at 64 Fed Reg. 52828, 52975 (September 30, 1999)):

Under [the approach adopted by USEPA as a] final rule, MACT air

emissions and related operating requirements are to be included in title V permits; RCRA permits will continue to be required for all other aspects of the combustion unit and the facility that are governed by RCRA (e.g., corrective action, general facility standards, other combustor-specific concerns such as materials handling, risk-based emissions limits and operating requirements, as appropriate, and other hazardous waste management units).

c) The following hazardous wastes and facilities are not subject to regulation pursuant to this Subpart H:

1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. Such used oil is subject to regulation pursuant to 35 Ill. Adm. Code 739, rather than this Subpart H;

2) Gas recovered from hazardous or solid waste landfills, when such gas is burned for energy recovery;

3) Hazardous wastes that are exempt from regulation pursuant to 35 Ill. Adm. Code 721.104 and 721.106(a)(3)(C) and (a)(3)(D) and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators pursuant to 35 Ill. Adm. Code 721.105; and

4) Coke ovens, if the only hazardous waste burned is USEPA hazardous waste no. K087 decanter tank tar sludge from coking operations.

d) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices, such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation pursuant to this Subpart H, except for Sections 726.201 and 726.212.

1) To be exempt from Sections 726.202 through 726.211, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dust emitted by

steel manufacturing must comply with the requirements of subsection (d)(3) of this Section, and an owner or operator of a lead recovery furnace that is subject to regulation under the Secondary Lead Smelting NESHAP of federal subpart X of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting) must comply with the requirements of subsection (h) of this Section:

A) Provide a one-time written notice to the Agency indicating the following:

i) The owner or operator claims exemption pursuant to this subsection (d);

ii) The hazardous waste is burned solely for metal recovery consistent with the provisions of subsection (d)(2) of this Section;

iii) The hazardous waste contains recoverable levels of metals; and

iv) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this subsection (d);

B) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this subsection (d) by using appropriate methods; and

C) Maintain at the facility for at least three years records to document compliance with the provisions of this subsection (d), including limits on levels of toxic organic constituents and Btu value of the waste and levels of recoverable metals in the hazardous waste compared to normal non-hazardous waste feedstocks.

2) A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:

A) The hazardous waste has a total concentration of organic compounds listed in Appendix H to 35 Ill. Adm. Code 721

exceeding 500 ppm by weight, as fired, and so is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited, and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C) of this Section; or

B) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and is so considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C) of this Section.

3) To be exempt from Sections 726.202 through 726.211, an owner or operator of a lead, nickel-chromium, or mercury recovery furnace, except for an owner or operator of a lead recovery furnace that is subject to regulation pursuant to the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the Agency identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste pursuant to this subsection (d)(3) or subsection (d)(1) of this Section. The owner or operator must comply with the requirements of subsection (d)(1) of this Section for those wastes claimed to be exempt pursuant to that subsection and must comply with the following requirements for those wastes claimed to be exempt pursuant to this subsection (d)(3):

A) The hazardous wastes listed in Appendices K, L, and M of this Part and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of subsection (d)(1) of this Section, provided the following are true:

i) A waste listed in Appendix K of this Part must contain

recoverable levels of lead, a waste listed in Appendix L of this Part must contain recoverable levels of nickel or chromium, a waste listed in Appendix M of this Part must contain recoverable levels of mercury and contain less than 500 ppm of Appendix H to 35 Ill. Adm. Code 721 organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;

ii) The waste does not exhibit the toxicity characteristic of 35 Ill. Adm. Code 721.124 for an organic constituent;

iii) The waste is not a hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 because it is listed for an organic constituent, as identified in Appendix G of 35 Ill. Adm. Code 721; and

iv) The owner or operator certifies in the one-time notice that hazardous waste is burned pursuant to the provisions of subsection (d)(3) of this Section and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis must be conducted according to subsection (d)(1)(B) of this Section, and records to document compliance with subsection (d)(3) of this Section must be kept for at least three years.

B) The Agency may decide, on a case-by-case basis, that the toxic organic constituents in a material listed in Appendix K, Appendix L, or Appendix M of this Part that contains a total concentration of more than 500 ppm toxic organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this Subpart H. Under these circumstances, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this Subpart H when burning that material. In making the hazard determination, the Agency must consider the following factors:

i) The concentration and toxicity of organic constituents in the material;

ii) The level of destruction of toxic organic constituents provided by the furnace; and

iii) Whether the acceptable ambient levels established in Appendix D or E of this Part will be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

e) The standards for direct transfer operations pursuant to Section 726.211 apply only to facilities subject to the permit standards of Section 726.202 or the interim status standards of Section 726.203.

f) The management standards for residues pursuant to Section 726.212 apply to any BIF burning hazardous waste.

g) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these metals are conditionally exempt from regulation pursuant to this Subpart H, except for Section 726.212. To be exempt from Sections 726.202 through 726.211, an owner or operator must do the following:

1) Provide a one-time written notice to the Agency indicating the following:

A) The owner or operator claims exemption pursuant to this Section,

B) The hazardous waste is burned for legitimate recovery of precious metal, and

C) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this Section;

2) Sample and analyze the hazardous waste, as necessary, to document that the waste is burned for recovery of economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metal; and

3) Maintain, at the facility for at least three years, records to document that all hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.

h) An owner or operator of a lead recovery furnace that processes hazardous waste for recovery of lead and which is subject to regulation pursuant to the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, is conditionally exempt from regulation pursuant to this Subpart H, except for Section 726.201. To become exempt, an owner or operator must provide a one-time notice to the Agency identifying each hazardous waste burned and specifying that the owner or operator claims an exemption pursuant to this subsection (h). The notice also must state that the waste burned has a total concentration of non-metal compounds listed in Appendix H to 35 Ill. Adm. Code 721 of less than 500 ppm by weight, as fired and as provided in subsection (d)(2)(A) of this Section, or is listed in Appendix K to this Part.

i) Abbreviations and definitions. The following definitions and abbreviations are used in this Subpart H:

"APCS" means air pollution control system.

"BIF" means boiler or industrial furnace.

"Carcinogenic metals" means arsenic, beryllium, cadmium, and chromium.

"CO" means carbon monoxide.

"Continuous monitor" is a monitor that continuously samples the regulated parameter without interruption, that evaluates the detector response at least once each 15 seconds, and that computes and records the average value at least every 60 seconds.
BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(i)(B)(*1*)(*i*) and (e)(6)(ii)(B)(*1*).

"DRE" means destruction or removal efficiency.

"cu m" or "m^3" means cubic meters.

"E" means "ten to the power." For example, "XE-Y" means "X times ten to the -Y power."

"Feed rates" are measured as specified in Section 726.202(e)(6).

"Good engineering practice stack height" is as defined by federal 40 CFR 51.100(ii) (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

"HC" means hydrocarbon.

"HCl" means hydrogen chloride gas.

"Hourly rolling average" means the arithmetic mean of the 60 most recent one-minute average values recorded by the continuous monitoring system.
BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(i)(B)(*1*)(*ii*).

"K" means Kelvin.

"kVA" means kilovolt amperes.

"MEI" means maximum exposed individual.

"MEI location" means the point with the maximum annual average off-site (unless on-site is required) ground level concentration.

"Noncarcinogenic metals" means antimony, barium, lead, mercury, thallium, and silver.

"One hour block average" means the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour.
BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(ii)(B)(*2*).

"PIC" means product of incomplete combustion.

"PM" means particulate matter.

"POHC" means principal organic hazardous constituent.

"ppmv" means parts per million by volume.

"QA/QC" means quality assurance and quality control.

"Rolling average for the selected averaging period" means the arithmetic mean of one hour block averages for the averaging period.
BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(ii)(B)(2).

"RAC" means reference air concentration, the acceptable ambient level for the noncarcinogenic metals for purposes of this Subpart. RACs are specified in Appendix D of this Part.

"RSD" means risk-specific dose, the acceptable ambient level for the carcinogenic metals for purposes of this Subpart. RSDs are specified in Appendix E of this Part.

"SSU" means "Saybolt Seconds Universal," a unit of viscosity measured by ASTM D 88-87 (Standard Test Method for Saybolt Viscosity) or D 2161-87 (Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

"TCLP test" means Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), as used for the purposes of 35 Ill. Adm. Code 721.124.

"TESH" means terrain-adjusted effective stack height (in meters).

"Tier I." See Section 726.206(b).

"Tier II." See Section 726.206(c).

"Tier III." See Section 726.206(d).

"Toxicity equivalence" is estimated, pursuant to Section 726.204(e), using section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (see Appendix I of this Part).

"mg" means microgram.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.202 Permit Standards for Burners

a) Applicability.

1) General. An owner or operator of a BIF that burns hazardous waste and which does not operate under interim status must comply with the requirements of this Section and 35 Ill. Adm. Code 703.208 and 703.232, unless exempt pursuant to the small quantity burner exemption of Section 726.208.

2) Applicability of 35 Ill. Adm. Code 724 standards. An owner or operator of a BIF that burns hazardous waste is subject to the following provisions of 35 Ill. Adm. Code 724, except as provided otherwise by this Subpart H:

A) In Subpart A (General), 35 Ill. Adm. Code 724.104;

B) In Subpart B (General facility standards), 35 Ill. Adm. Code 724.111 through 724.118;

C) In Subpart C (Preparedness and prevention), 35 Ill. Adm. Code 724.131 through 724.137;

D) In Subpart D (Contingency plan and emergency procedures), 35 Ill. Adm. Code 724.151 through 724.156;

E) In Subpart E (Manifest system, recordkeeping and reporting), the applicable provisions of 35 Ill. Adm. Code 724.171 through 724.177;

F) In Subpart F (Releases from Solid Waste Management Units)~~(Corrective Action)~~, 35 Ill. Adm. Code 724.190 and 724.201;

G) In Subpart G (Closure and post-closure), 35 Ill. Adm. Code 724.211 through 724.215;

H) In Subpart H (Financial requirements), 35 Ill. Adm. Code 724.241, 724.242, 724.243, and 724.247 through 724.251, except that the State of Illinois and the federal government are exempt from the requirements of Subpart H of 35 Ill. Adm. Code 724; and

I) Subpart BB (Air emission standards for equipment leaks), except 35 Ill. Adm. Code 724.950(a).

b) Hazardous waste analysis.

1) The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in Appendix H of 35 Ill. Adm. Code 721 that is reasonably expected to be in the waste. Such constituents must be identified and quantified if present, at levels detectable by using appropriate analytical methods. The constituents listed in Appendix H of 35 Ill. Adm. Code 721 that are excluded from this analysis must be identified and the basis for their exclusion explained. This analysis must provide all information required by this Subpart H and 35 Ill. Adm. Code 703.208 and 703.232 and must enable the Agency to prescribe such permit conditions as are necessary to adequately protect human health and the environment. Such analysis must be included as a portion of the Part B permit application, or, for facilities operating under the interim status standards of this Subpart H, as a portion of the trial burn plan that may be submitted before the Part B application pursuant to provisions of 35 Ill. Adm. Code 703.232(g), as well as any other analysis required by the Agency. The owner or operator of a BIF not operating under the interim status standards must provide the information required by 35 Ill. Adm. Code 703.208 and 703.232 in the Part B application to the

greatest extent possible.

2) Throughout normal operation, the owner or operator must conduct sampling and analysis as necessary to ensure that the hazardous waste, other fuels, and industrial furnace feedstocks fired into the BIF are within the physical and chemical composition limits specified in the permit.

c) Emissions standards. An owner or operator must comply with emissions standards provided by Sections 726.204 through 726.207.

d) Permits.

1) The owner or operator must burn only hazardous wastes specified in the facility permit and only under the operating conditions specified pursuant to subsection (e) of this Section, except in approved trial burns under the conditions specified in 35 Ill. Adm. Code 703.232.

2) Hazardous wastes not specified in the permit must not be burned until operating conditions have been specified under a new permit or permit modification, as applicable. Operating requirements for new wastes must be based on either trial burn results or alternative data included with Part B of a permit application pursuant to 35 Ill. Adm. Code 703.208.

3) BIFs operating under the interim status standards of Section 726.203 are permitted pursuant to procedures provided by 35 Ill. Adm. Code 703.232(g).

4) A permit for a new BIF (those BIFs not operating under the interim status standards) must establish appropriate conditions for each of the applicable requirements of this Section, including but not limited to allowable hazardous waste firing rates and operating conditions necessary to meet the requirements of subsection (e) of this Section, in order to comply with the following standards:

A) 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 device to a point of operational readiness to conduct a trial burn, not to exceed a duration of 720 hours operating time when burning hazardous

waste, the operating requirements must be those most likely to ensure compliance with the emission standards of Sections 726.204 through 726.207, based on the Agency's engineering judgment. If the applicant is seeking a waiver from a trial burn to demonstrate conformance with a particular emission standard, the operating requirements during this initial period of operation must include those specified by the applicable provisions of Section 726.204, Section 726.205, Section 726.206, or Section 726.207. The Agency must extend the duration of this period for up to 720 additional hours when good cause for the extension is demonstrated by the applicant.

B) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the emissions standards of Sections 726.204 through 726.207 and must be in accordance with the approved trial burn plan;

C) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, submission of the trial burn results by the applicant, review of the trial burn results, and modification of the facility permit by the Agency to reflect the trial burn results, the operating requirements must be those most likely to ensure compliance with the emission standards Sections 726.204 through 726.207 based on the Agency's engineering judgment.

D) For the remaining duration of the permit, the operating requirements must be those demonstrated in a trial burn or by alternative data specified in 35 Ill. Adm. Code 703.208, as sufficient to ensure compliance with the emissions standards of Sections 726.204 through 726.207.

e) Operating requirements.

1) General. A BIF burning hazardous waste must be operated in accordance with the operating requirements specified in the permit at all times when there is hazardous waste in the unit.

2) Requirements to ensure compliance with the organic emissions standards.

A) DRE (destruction or removal efficiency) standard. Operating conditions must be specified in either of the following ways: on a case-by-case basis for each hazardous waste burned, which conditions must be demonstrated (in a trial burn or by alternative data, as specified in 35 Ill. Adm. Code 703.208) to be sufficient to comply with the DRE performance standard of Section 726.204(a), or as special operating requirements provided by Section 726.204(a)(4) for the waiver of the DRE trial burn. When the DRE trial burn is not waived pursuant to Section 726.204(a)(4), each set of operating requirements must specify the composition of the hazardous waste (including acceptable variations in the physical and chemical properties of the hazardous waste that will not affect compliance with the DRE performance standard) to which the operating requirements apply. For each such hazardous waste, the permit must specify acceptable operating limits including, but not limited to, the following conditions, as appropriate:

i) Feed rate of hazardous waste and other fuels measured and specified as prescribed in subsection (e)(6) of this Section;

ii) Minimum and maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subsection (e)(6) of this Section;

iii) Appropriate controls of the hazardous waste firing system;

iv) Allowable variation in BIF system design or operating procedures;

v) Minimum combustion gas temperature measured at a location indicative of combustion chamber temperature, measured, and specified as prescribed in subsection (e)(6) of this Section;

vi) An appropriate indicator of combustion gas velocity, measured and specified as prescribed in subsection (e)(6) of this Section, unless documentation is provided pursuant to

35 Ill. Adm. Code 703.232 demonstrating adequate combustion gas residence time; and

vii) Such other operating requirements as are necessary to ensure that the DRE performance standard of Section 726.204(a) is met.

B) CO and hydrocarbon (HC) standards. The permit must incorporate a CO limit and, as appropriate, a HC limit as provided by Section 726.204(b), (c), (d), (e), and (f). The permit limits must be specified as follows:

i) When complying with the CO standard of Section 726.204(b)(1), the permit limit is 100 ppmv;

ii) When complying with the alternative CO standard pursuant to Section 726.204(c), the permit limit for CO is based on the trial burn and is established as the average over all valid runs of the highest hourly rolling average CO level of each run; and, the permit limit for HC is 20 ppmv (as defined in Section 726.204(c)(1)), except as provided in Section 726.204(f); or

iii) When complying with the alternative HC limit for industrial furnaces pursuant to Section 726.204(f), the permit limit for HC and CO is the baseline level when hazardous waste is not burned as specified by that subsection.

C) Start-up and shut-down. During start-up and shut-down of the BIF, hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted Tier I) feed rate screening limits for metals and chloride/chlorine, and except low risk waste exempt from the trial burn requirements pursuant to Sections 726.204(a)(5), 726.205, 726.206, and 726.207) must not be fed into the device, unless the device is operating within the conditions of operation specified in the permit.

3) Requirements to ensure conformance with the particulate matter (PM)

standard.

A) Except as provided in subsections (e)(3)(B) and (e)(3)(C) of this Section, the permit must specify the following operating requirements to ensure conformance with the PM standard specified in Section 726.205:

i) Total ash feed rate to the device from hazardous waste, other fuels, and industrial furnace feedstocks, measured and specified as prescribed in subsection (e)(6) of this Section;

ii) Maximum device production rate when producing normal product expressed in appropriate units, and measured and specified as prescribed in subsection (e)(6) of this Section;

iii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system (APCS);

iv) Allowable variation in BIF system design including any APCS or operating procedures; and

v) Such other operating requirements as are necessary to ensure that the PM standard in Section 726.205(a)~~726.211(b)~~ is met.

B) Permit conditions to ensure conformance with the PM standard must not be provided for facilities exempt from the PM standard pursuant to Section 726.205(b);

C) For cement kilns and light-weight aggregate kilns, permit conditions to ensure compliance with the PM standard must not limit the ash content of hazardous waste or other feed materials.

4) Requirements to ensure conformance with the metals emissions standard.

A) For conformance with the Tier I (or adjusted Tier I) metals feed rate screening limits of Section 726.206(b) or (e), the permit must specify the following operating requirements:

i) Total feed rate of each metal in hazardous waste, other fuels and industrial furnace feedstocks measured and specified pursuant to provisions of subsection (e)(6) of this Section;

ii) Total feed rate of hazardous waste measured and specified as prescribed in subsection (e)(6) of this Section; and

iii) A sampling and metals analysis program for the hazardous waste, other fuels and industrial furnace feedstocks;

B) For conformance with the Tier II metals emission rate screening limits pursuant to Section 726.206(c) and the Tier III metals controls pursuant to Section 726.206(d), the permit must specify the following operating requirements:

i) Maximum emission rate for each metal specified as the average emission rate during the trial burn;

ii) Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in subsection (e)(6)(A) of this Section;

iii) Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subsections (e)(6) of this Section: total feed streams; total hazardous waste feed; and total pumpable hazardous waste feed;

iv) Total feed rate of chlorine and chloride in total feed streams measured and specified as prescribed in subsection (e)(6) of this Section;

v) Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subsection (e)(6) of this Section;

vi) Maximum flue gas temperature at the inlet to the PM APCS

measured and specified as prescribed in subsection (e)(6) of this Section;

vii) Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subsection (e)(6) of this Section;

viii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;

ix) Allowable variation in BIF system design including any APCS or operating procedures; and

x) Such other operating requirements as are necessary to ensure that the metals standards pursuant to Section 726.206(c) or (d) are met.

C) For conformance with an alternative implementation approach approved by the Agency pursuant to Section 726.206(f), the permit must specify the following operating requirements:

i) Maximum emission rate for each metal specified as the average emission rate during the trial burn;

ii) Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in subsection (e)(6)(A) of this Section;

iii) Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subsection (e)(6) of this Section: total hazardous waste feed; and total pumpable hazardous waste feed;

iv) Total feed rate of chlorine and chloride in total feed streams measured and specified prescribed in subsection (e)(6) of this Section;

v) Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature,

and measured and specified as prescribed in subsection (e)(6) of this Section;

vi) Maximum flue gas temperature at the inlet to the PM APCS measured and specified as prescribed in subsection (e)(6) of this Section;

vii) Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subsection (e)(6) of this Section;

viii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;

ix) Allowable variation in BIF system design including any APCS or operating procedures; and

x) Such other operating requirements as are necessary to ensure that the metals standards pursuant to Section 726.206(c) or (d) are met.

5) Requirements to ensure conformance with the HCl and chlorine gas standards.

A) For conformance with the Tier I total chlorine and chloride feed rate screening limits of Section 726.207(b)(1), the permit must specify the following operating requirements:

i) Feed rate of total chlorine and chloride in hazardous waste, other fuels and industrial furnace feedstocks measured and specified as prescribed in subsection (e)(6) of this Section;

ii) Feed rate of total hazardous waste measured and specified as prescribed in subsection (e)(6) of this Section; and

iii) A sampling and analysis program for total chlorine and chloride for the hazardous waste, other fuels and industrial furnace feedstocks;

B) For conformance with the Tier II HCl and chlorine gas emission rate screening limits pursuant to Section 726.207(b)(2) and the Tier III HCl and chlorine gas controls pursuant to Section 726.207(c), the permit must specify the following operating requirements:

i) Maximum emission rate for HCl and for chlorine gas specified as the average emission rate during the trial burn;

ii) Feed rate of total hazardous waste measured and specified as prescribed in subsection (e)(6) of this Section;

iii) Total feed rate of chlorine and chloride in total feed streams, measured and specified as prescribed in subsection (e)(6) of this Section;

iv) Maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subsection (e)(6) of this Section;

v) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;

vi) Allowable variation in BIF system design including any APCS or operating procedures; and

vii) Such other operating requirements as are necessary to ensure that the HCl and chlorine gas standards pursuant to Section 726.207(b)(2) or (c) are met.

6) Measuring parameters and establishing limits based on trial burn data.

A) General requirements. As specified in subsections (e)(2) through (e)(5) of this Section, each operating parameter must be measured, and permit limits on the parameter must be established, according to either of the following procedures:

i) Instantaneous limits. A parameter is measured and recorded on an instantaneous basis (i.e., the value that occurs at any time) and the permit limit specified as the

time-weighted average during all valid runs of the trial burn; or

ii) Hourly rolling average. The limit for a parameter must be established and continuously monitored on an hourly rolling average basis, as defined in Section 726.200(i). The permit limit for the parameter must be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average value for each run.

BOARD NOTE: The Board has combined the text of 40 CFR 266.100(e)(6)(i)(B)(*1*) and (e)(6)(i)(B)(*2*) into this subsection (e)(6)(A)(ii) and moved the text of 40 CFR 266.100(e)(6)(i)(B)(*1*)(*i*) and (e)(6)(i)(B)(*1*)(*ii*) to appear as definitions of "continuous monitor" and "hourly rolling average," respectively, in Section 726.200(i) to comport with Illinois Administrative Code codification requirements.

B) Rolling average limits for carcinogenic metals and lead. Feed rate limits for the carcinogenic metals (as defined in Section726.200(i)) and lead must be established either on an hourly rolling average basis, as prescribed by subsection (e)(6)(A) of this Section, or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an average period from 2 to 24 hours, the following requirements apply:

i) The feed rate of each metal must be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;

ii) The continuous monitor must meet the specifications of "continuous monitor," "rolling average for the selected averaging period," and "one hour block average"~~Terms are~~ as defined in Section 726.200(i); and

BOARD NOTE: The Board has moved the text of 40 CFR 266.100(e)(6)(ii)(B)(*1*) and (e)(6)(ii)(B)(*2*) to appear as

definitions in Section 726.200(i) to comport with Illinois Administrative Code codification requirements.

iii) The permit limit for the feed rate of each metal must be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average feed rate for each run.

C) Feed rate limits for metals, total chlorine and chloride, and ash. Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored pursuant to the continuous monitoring requirements of subsections (e)(6)(A) and (e)(6)(B) of this Section.

D) Conduct of trial burn testing.

i) If compliance with all applicable emissions standards of Sections 726.204 through 726.207 is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as close as possible to the original operating conditions.

ii) Prior to obtaining test data for purposes of demonstrating compliance with the emissions standards of Sections 726.204 through 726.207 or establishing limits on operating parameters pursuant to this Section, the unit must operate under trial burn conditions for a sufficient period to reach steady-state operations. However, industrial furnaces that recycle collected PM back into the furnace and that comply with an alternative implementation approach for metals pursuant to Section 726.206(f) need not reach steady state conditions with respect to the flow of metals in the system prior to beginning compliance testing for metals emissions.

iii) Trial burn data on the level of an operating parameter for which a limit must be established in the permit must be obtained during emissions sampling for the pollutants (i.e., metals, PM, HCl/chlorine gas, organic compounds) for which the parameter must be established as specified by this subsection (e).

7) General requirements.

A) Fugitive emissions. Fugitive emissions must be controlled in one of the following ways:

i) By keeping the combustion zone totally sealed against fugitive emissions;

ii) By maintaining the combustion zone pressure lower than atmospheric pressure; or

iii) By an alternative means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

B) Automatic waste feed cutoff. A BIF must be operated with a functioning system that automatically cuts off the hazardous waste feed when operating conditions deviate from those established pursuant to this Section. In addition, the following requirements apply:

i) The permit limit for (the indicator of) minimum combustion chamber temperature must be maintained while hazardous waste or hazardous waste residues remain in the combustion chamber;

ii) Exhaust gases must be ducted to the APCS operated in accordance with the permit requirements while hazardous waste or hazardous waste residues remain in the combustion chamber; and

iii) Operating parameters for which permit limits are established must continue to be monitored during the cutoff, and the hazardous waste feed must not be restarted until the levels of those parameters comply with the permit limits. For parameters that are monitored on an instantaneous basis, the Agency must establish a minimum period of time after a waste feed cutoff during which the parameter must not exceed the permit limit before the hazardous waste feed is restarted.

C) Changes. A BIF must cease burning hazardous waste when combustion properties or feed rates of the hazardous waste, other fuels or industrial furnace feedstocks, or the BIF design or operating conditions deviate from the limits as specified in the permit.

8) Monitoring and Inspections.

A) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:

i) If specified by the permit, feed rates and composition of hazardous waste, other fuels, and industrial furnace feedstocks and feed rates of ash, metals, and total chlorine and chloride;

ii) If specified by the permit, CO, HCs, and oxygen on a continuous basis at a common point in the BIF downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with operating requirements specified in subsection (e)(2)(B) of this Section. CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix I of this Part; and

iii) Upon the request of the Agency, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feedstocks as appropriate), residues, and exhaust emissions must be conducted to verify that the operating requirements

established in the permit achieve the applicable standards of Sections 726.204, 726.205, 726.206, and 726.207.

B) All monitors must record data in units corresponding to the permit limit unless otherwise specified in the permit.

C) The BIF and associated equipment (pumps, valves,~~values,~~ pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when it contains hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

D) The automatic hazardous waste feed cutoff system and associated alarms must be tested at least once every seven days when hazardous waste is burned to verify operability, unless the applicant demonstrates to the Agency that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. At a minimum, operational testing must be conducted at least once every 30 days.

E) These monitoring and inspection data must be recorded and the records must be placed in the operating record required by 35 Ill. Adm. Code 724.173.

9) Direct transfer to the burner. If hazardous waste is directly transferred from a transport vehicle to a BIF without the use of a storage unit, the owner and operator must comply with Section 726.211.

10) Recordkeeping. The owner or operator must maintain~~keep~~ in the operating record of the facility all information and data required by this Section for five years~~until closure of the facility~~.

11) Closure. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the BIF.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.203 Interim Status Standards for Burners

a) Purpose, scope, and applicability.

1) General.

A) The purpose of this Section is to establish minimum national standards for owners and operators of "existing" BIFs that burn hazardous waste where such standards define the acceptable management of hazardous waste during the period of interim status. The standards of this Section apply to owners and operators of existing facilities until either a permit is issued under Section 726.202(d) or until closure responsibilities identified in this Section are fulfilled.

B) "Existing" or "in existence" means a BIF for which the owner or operator filed a certification of precompliance with USEPA pursuant to federal 40 CFR 266.103(b); provided, however, that USEPA has not determined that the certification is invalid.

C) If a BIF is located at a facility that already has a RCRA permit or interim status, then the owner or operator must comply with the applicable regulations dealing with permit modifications in 35 Ill. Adm. Code 703.280 or changes in interim status in 35 Ill. Adm. Code 703.155.

2) Exemptions. The requirements of this Section do not apply to hazardous waste and facilities exempt under Section 726.200(b) or 726.208.

3) Prohibition on burning dioxin-listed wastes. The following hazardous waste listed for dioxin and hazardous waste derived from any of these wastes must not be burned in a BIF operating under interim status: USEPA hazardous waste numbers F020, F021, F022, F023, F026, and F027.

4) Applicability of 35 Ill. Adm. Code 725 standards. An owner or operator of a BIF that burns hazardous waste and which is operating under interim status is subject to the following provisions of 35 Ill. Adm. Code 725, except as provided otherwise by this Section:

A) In Subpart A of 35 Ill. Adm. Code 725 (General), 35 Ill. Adm.

Code 725.104;

B) In Subpart B of 35 Ill. Adm. Code 725 (General facility standards), 35 Ill. Adm. Code 725.111 through 725.117;

C) In Subpart C of 35 Ill. Adm. Code 725 (Preparedness and prevention), 35 Ill. Adm. Code 725.131 through 725.137;

D) In Subpart D of 35 Ill. Adm. Code 725 (Contingency plan and emergency procedures), 35 Ill. Adm. Code 725.151 through 725.156;

E) In Subpart E of 35 Ill. Adm. Code 725 (Manifest system, recordkeeping and reporting), 35 Ill. Adm. Code 725.171 through 725.177, except that 35 Ill. Adm. Code 725.171, 725.172 and 725.176 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources;

F) In Subpart G of 35 Ill. Adm. Code 725 (Closure and post-closure), 35 Ill. Adm. Code 725.211 through 725.215;

G) In Subpart H of 35 Ill. Adm. Code 725 (Financial requirements), 35 Ill. Adm. Code 725.241, 725.242, 725.243, and 725.247 through 725.250~~725.251~~, except that the State of Illinois and the federal government are exempt from the requirements of Subpart H of 35 Ill. Adm. Code 725; and

H) In Subpart BB of 35 Ill. Adm. Code 725 (Air emission standards for equipment leaks), except 35 Ill. Adm. Code 725.950(a).

5) Special requirements for furnaces. The following controls apply during interim status to industrial furnaces (e.g., kilns, cupolas) that feed hazardous waste for a purpose other than solely as an ingredient (see subsection (a)(5)(B) of this Section) at any location other than the hot end where products are normally discharged or where fuels are normally fired:

A) Controls.

i) The hazardous waste must be fed at a location where

combustion gas temperature is at least 1800°F;

ii) The owner or operator must determine that adequate oxygen is present in combustion gases to combust organic constituents in the waste and retain documentation of such determination in the facility record;

iii) For cement kiln systems, the hazardous waste must be fed into the kiln; and

iv) The HC controls of Section 726.204(f) or subsection (c)(5) of this Section apply upon certification of compliance under subsection (c) of this Section, irrespective of the CO level achieved during the compliance test.

B) Burning hazardous waste solely as an ingredient. A hazardous waste is burned for a purpose other than "solely as an ingredient" if it meets either of the following criteria:

i) The hazardous waste has a total concentration of nonmetal compounds listed in Appendix H of 35 Ill. Adm. Code 721, exceeding 500 ppm by weight, as fired and so is considered to be burned for destruction. The concentration of nonmetal compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys nonmetal constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the facility record; or

ii) The hazardous waste has a heating value of 5,000 Btu/lb or more, as fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited

and documentation that the waste has not been impermissibly blended must be retained in the facility record.

6) Restrictions on burning hazardous waste that is not a fuel. Prior to certification of compliance under subsection (c) of this Section, an owner or operator must not feed hazardous waste that has a heating value less than 5000 Btu/lb, as generated, (except that the heating value of a waste as-generated may be increased to above the 5,000 Btu/lb limit by bona fide treatment; however blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and records must be kept to document that impermissible blending has not occurred) in a BIF, except that the following may occur:

A) Hazardous waste may be burned solely as an ingredient;

B) Hazardous waste may be burned for purposes of compliance testing (or testing prior to compliance testing) for a total period of time not to exceed 720 hours;

C) Such waste may be burned if the Agency has documentation to show that the following was true prior to August 21, 1991:

i) The BIF was operating under the interim status standards for incinerators or thermal treatment units, Subparts O or P of 35 Ill. Adm. Code 725;

ii) The BIF met the interim status eligibility requirements under 35 Ill. Adm. Code 703.153 for Subparts O or P of 35 Ill. Adm. Code 725; and

iii) Hazardous waste with a heating value less than 5,000 Btu/lb was burned prior to that date; or

D) Such waste may be burned in a halogen acid furnace if the waste was burned as an excluded ingredient under 35 Ill. Adm. Code 721.102(e) prior to February 21, 1991, and documentation is kept on file supporting this claim.

7) Direct transfer to the burner. If hazardous waste is directly transferred from a transport vehicle to a BIF without the use of a storage unit, the owner or operator must comply with Section 726.211.

b) Certification of precompliance. This subsection corresponds with 40 CFR 266.103(b), under which USEPA required certain owners and operators to file a certification of precompliance by August 21, 1991. No similar filing with the Agency was required, so the Board did not incorporate the federal filing requirement into the Illinois regulations. This statement maintains structural parity with the federal regulations.

c) Certification of compliance. The owner or operator must conduct emissions testing to document compliance with the emissions standards of Sections 726.204(b) through (e), 726.205, 726.206, and 726.207 and subsection (a)(5)(A)(iv) of this Section under the procedures prescribed by this subsection (c), except under extensions of time provided by subsection (c)(7) of this Section. Based on the compliance test, the owner or operator must submit to the Agency, on or before August 21, 1992, a complete and accurate "certification of compliance" (under subsection (c)(4) of this Section) with those emission standards establishing limits on the operating parameters specified in subsection (c)(1) of this Section.

1) Limits on operating conditions. The owner or operator must establish limits on the following parameters based on operations during the compliance test (under procedures prescribed in subsection (c)(4)(D)of this Section) or as otherwise specified and include these limits with the certification of compliance. The BIF must be operated in accordance with these operating limits and the applicable emissions standards of Sections 726.204(b) through (e), 726.205, 726.206, and 726.207 and subsection (a)(5)(A)(iv) of this Section at all times when there is hazardous waste in the unit.

A) Feed rate of total hazardous waste and (unless complying the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e)), pumpable hazardous waste;

B) Feed rate of each metal in the following feedstreams:

i) Total feedstreams, except that industrial furnaces which

must comply with the alternative metals implementation approach under subsection (c)(3)(B) of this Section must specify limits on the concentration of each metal in collected PM in lieu of feed rate limits for total feedstreams; and facilities that comply with Tier I or Adjusted Tier I metals feed rate screening limits may set their operating limits at the metal feed rate screening limits determined under subsection 726.206(b) or (e) of this Section;

BOARD NOTE: Federal subsections 266.103(c)(1)(ii)(A)(1) and (c)(1)(ii)(A)(2) are condensed into subsection (c)(1)(B)(i).

ii) Total hazardous waste feed (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e)); and

iii) Total pumpable hazardous waste feed (unless complying with Tier I or Adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e));

C) Total feed rate of total chlorine and chloride in total feed streams, except that facilities that comply with Tier I or Adjusted Tier I feed rate screening limits may set their operating limits at the total chlorine and chloride feed rate screening limits determined under Section 726.207(b)(1) or (e);

D) Total feed rate of ash in total feed streams, except that the ash feed rate for cement kilns and light-weight aggregate kilns is not limited;

E) CO concentration, and where required, HC concentration in stack gas. When complying with the CO controls of Section 726.204(b), the CO limit is 100 ppmv, and when complying with the HC controls of Section 726.204(c), the HC limit is 20 ppmv. When complying with the CO controls of Section 726.204(c), the CO limit is established based on the compliance test;

F) Maximum production rate of the device in appropriate units when producing normal product unless complying with Tier I or Adjusted Tier I feed rate screening limits for chlorine under Section 726.207(b)(1) or (e) and for all metals under Section 726.207(b) or (e), and the uncontrolled particulate emissions do not exceed the standard under Section 726.205;

G) Maximum combustion chamber temperature where the temperature measurement is as close to the combustion zone as possible and is upstream of any quench water injection, (unless complying with the Tier I adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e));

H) Maximum flue gas temperature entering a PM control device (unless complying with Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e));

I) For systems using wet scrubbers, including wet ionizing scrubbers (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e)):

i) Minimum liquid to flue gas ratio;

ii) Minimum scrubber blowdown from the system or maximum suspended solids content of scrubber water; and

iii) Minimum pH level of the scrubber water;

J) For systems using venturi scrubbers, the minimum differential gas pressure across the venturi (unless complying the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e));

K) For systems using dry scrubbers (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate

screening limits under Section 726.207(b)(1) or (e)):

i) Minimum caustic feed rate; and

ii) Maximum flue gas flow rate;

L) For systems using wet ionizing scrubbers or electrostatic precipitators (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e)):

i) Minimum electrical power in kVA to the precipitator plates; and

ii) Maximum flue gas flow rate;

M) For systems using fabric filters (baghouses), the minimum pressure drop (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e)).

2) Prior notice of compliance testing. At least 30 days prior to the compliance testing required by subsection (c)(3) of this Section, the owner or operator must notify the Agency and submit the following information:

A) General facility information including:

i) USEPA facility ID number;

ii) Facility name, contact person, telephone number, and address;

iii) Person responsible for conducting compliance test, including company name, address, and telephone number, and a statement of qualifications;

iv) Planned date of the compliance test;

B) Specific information on each device to be tested, including the following:

i) A Description of BIF;

ii) A scaled plot plan showing the entire facility and location of the BIF;

iii) A description of the APCS;

iv) Identification of the continuous emission monitors that are installed, including the following: CO monitor; Oxygen monitor; HC monitor, specifying the minimum temperature of the system, and, if the temperature is less than 150º C, an explanation of why a heated system is not used (see subsection (c)(5) of this Section) and a brief description of the sample gas conditioning system;

v) Indication of whether the stack is shared with another device that will be in operation during the compliance test; and

vi) Other information useful to an understanding of the system design or operation; and

C) Information on the testing planned, including a complete copy of the test protocol and QA/QC plan, and a summary description for each test providing the following information at a minimum:

i) Purpose of the test (e.g., demonstrate compliance with emissions of PM); and

ii) Planned operating conditions, including levels for each pertinent parameter specified in subsection (c)(1) of this Section.

3) Compliance testing.

A) General. Compliance testing must be conducted under conditions for which the owner or operator has submitted a certification of precompliance under subsection (b) of this Section and under conditions established in the notification of compliance testing required by subsection (c)(2) of this Section. The owner or operator may seek approval on a case-by-case basis to use compliance test data from one unit in lieu of testing a similar on-site unit. To support the request, the owner or operator must provide a comparison of the hazardous waste burned and other feedstreams, and the design, operation, and maintenance of both the tested unit and the similar unit. The Agency must provide a written approval to use compliance test data in lieu of testing a similar unit if the Agency finds that the hazardous wastes, devices and the operating conditions are sufficiently similar, and the data from the other compliance test is adequate to meet the requirements of this subsection (c).

B) Special requirements for industrial furnaces that recycle collected PM. Owners and operators of industrial furnaces that recycle back into the furnace PM from the APCS must comply with one of the following procedures for testing to determine compliance with the metals standards of Section 726.206(c) or (d):

i) The special testing requirements prescribed in "Alternative Method for Implementing Metals Controls" in Appendix I to this Part;

ii) Stack emissions testing for a minimum of six hours each day while hazardous waste is burned during interim status. The testing must be conducted when burning normal hazardous waste for that day at normal feed rates for that day and when the APCS is operated under normal conditions. During interim status, hazardous waste analysis for metals content must be sufficient for the owner or operator to determine if changes in metals content affect the ability of the unit to meet the metals emissions standards established under Section 726.206(c) or (d). Under this option, operating limits (under subsection (c)(1)of this Section) must be established during

compliance testing under this subsection (c)(3) only on the following parameters: feed rate of total hazardous waste; total feed rate of total chlorine and chloride in total feed streams; total feed rate of ash in total feed streams, except that the ash feed rate for cement kilns and light-weight aggregate kilns is not limited; CO concentration, and where required, HC concentration in stack gas; and maximum production rate of the device in appropriate units when producing normal product; or

iii) Conduct compliance testing to determine compliance with the metals standards to establish limits on the operating parameters of subsection (c)(1) of this Section only after the kiln system has been conditioned to enable it to reach equilibrium with respect to metals fed into the system and metals emissions. During conditioning, hazardous waste and raw materials having the same metals content as will be fed during the compliance test must be fed at the feed rates that will be fed during the compliance test.

C) Conduct of compliance testing.

i) If compliance with all applicable emissions standards of Sections 726.204 through 726.207 is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as close as possible to the original operating conditions.

ii) Prior to obtaining test data for purposes of demonstrating compliance with the applicable emissions standards of Sections 726.204 through 726.207 or establishing limits on operating parameters under this Section, the facility must operate under compliance test conditions for a sufficient period to reach steady-state operations. Industrial furnaces that recycle collected PM back into the furnace and that comply with subsection (c)(3)(B)(i) or (c)(3)(B)(ii) of this Section, however, need not reach steady state conditions with respect to the flow of metals in the system prior to

beginning compliance testing for metals.

iii) Compliance test data on the level of an operating parameter for which a limit must be established in the certification of compliance must be obtained during emissions sampling for the pollutants (i.e., metals, PM, HCl/chlorine gas, organic compounds) for which the parameter must be established as specified by subsection (c)(1) of this Section.

4) Certification of compliance. Within 90 days of completing compliance testing, the owner or operator must certify to the Agency compliance with the emissions standards of Sections 726.204(b), (c) and (e); 726.205; 726.206; 726.207; and subsection (a)(5)(A)(iv) of this Section. The certification of compliance must include the following information:

A) General facility and testing information, including the following:

i) USEPA facility ID number;

ii) Facility name, contact person, telephone number, and address;

iii) Person responsible for conducting compliance testing, including company name, address, and telephone number, and a statement of qualifications;

iv) Dates of each compliance test;

v) Description of BIF tested;

vi) Person responsible for QA/QC, title and telephone number, and statement that procedures prescribed in the QA/QC plan submitted under Section 726.203(c)(2)(C) have been followed, or a description of any changes and an explanation of why changes were necessary;

vii) Description of any changes in the unit configuration prior to or during testing that would alter any of the information submitted in the prior notice of compliance testing under

subsection (c)(2) of this Section and an explanation of why the changes were necessary;

viii) Description of any changes in the planned test conditions prior to or during the testing that alter any of the information submitted in the prior notice of compliance testing under subsection (c)(2) of this Section and an explanation of why the changes were necessary; and

ix) The complete report on results of emissions testing.

B) Specific information on each test, including the following:

i) Purposes of test (e.g., demonstrate conformance with the emissions limits for PM, metals, HCl, chlorine gas, and CO);

ii) Summary of test results for each run and for each test including the following information: date of run; duration of run; time-weighted average and highest hourly rolling average CO level for each run and for the test; highest hourly rolling average HC level, if HC monitoring is required for each run and for the test; if dioxin and furan testing is required under Section 726.204(e), time-weighted average emissions for each run and for the test of chlorinated dioxin and furan emissions, and the predicted maximum annual average ground level concentration of the toxicity equivalency factor (defined in Section 726.200(i)); time-weighted average PM emissions for each run and for the test; time-weighted average HCl and chlorine gas emissions for each run and for the test; time-weighted average emissions for the metals subject to regulation under Section 726.206 for each run and for the test; and QA/QC results.

C) Comparison of the actual emissions during each test with the emissions limits prescribed by Sections 726.204(b), (c), and (e); 726.205; 726.206; and 726.207 and established for the facility in the certification of precompliance under subsection (b) of this

Section.

D) Determination of operating limits based on all valid runs of the compliance test for each applicable parameter listed in subsection (c)(1) of this Section using one of the following procedures:

i) Instantaneous limits. A parameter must be measured and recorded on an instantaneous basis (i.e., the value that occurs at any time) and the operating limit specified as the time-weighted average during all runs of the compliance test.

ii) Hourly rolling average basis. The limit for a parameter must be established and continuously monitored on an hourly rolling average basis, as defined in Section 726.200(i). The operating limit for the parameter must be established based on compliance test data as the average over all test runs of the highest hourly rolling average value for each run.

iii) Rolling average limits for carcinogenic metals (as defined in Section 726.200(i)) and lead. Feed rate limits for the carcinogenic metals and lead must be established either on an hourly rolling average basis as prescribed by subsection (c)(4)(D)(ii) of this Section or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an averaging period from two to 24 hours the following must occur: the feed rate of each metal must be limited at any time to ten times the feed rate that would be allowed on a hourly rolling average basis; the operating limit for the feed rate of each metal must be established based on compliance test data as the average over all test runs of the highest hourly rolling average feed rate for each run; and the continuous monitor and the rolling average for the selected averaging period are as defined in Section 726.200(i).

BOARD NOTE: The Board has combined the text of 40 C.F.R. 266.103(c)(4)(iv)(C)(1) and (c)(4)(iv)(C)(3) are

condensed into subsection (c)(b)(C)(iii) to comport with Illinois Administrative Code codification requirements.

iv) Feed rate limits for metals, total chlorine and chloride, and ash. Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine, and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under the continuous monitoring requirements of subsections (c)(4)(D)(i) through (c)(4)(D)(iii) of this Section.

E) Certification of compliance statement. The following statement must accompany the certification of compliance:

"I certify under penalty of law that this information was prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information and supporting documentation. Copies of all emissions tests, dispersion modeling results, and other information used to determine conformance with the requirements of 35 Ill. Adm. Code 726.203(c) are available at the facility and can be obtained from the facility contact person listed above. Based on my inquiry of the person or persons who manage the facility, 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.

I also acknowledge that the operating limits established pursuant to 35 Ill. Adm. Code 726.203(c)(4)(D) are enforceable limits at which the facility can legally operate during interim status until a revised certification of compliance is submitted."

5) Special requirements for HC monitoring systems. When an owner or operator is required to comply with the HC controls provided by Section 726.204(c) or subsection (a)(5)(A)(iv) of this Section, a conditioned gas monitoring system may be used in conformance with specifications provided in Appendix I to this Part provided that the owner or operator submits a certification of compliance without using extensions of time provided by subsection (c)(7) of this Section.

6) Special operating requirements for industrial furnaces that recycle collected PM. Owners and operators of industrial furnaces that recycle back into the furnace PM from the APCS must do the following:

A) When complying with the requirements of subsection (c)(3)(B)(i)of this Section, comply with the operating requirements prescribed in "Alternative Method to Implement the Metals Controls" in Appendix I to this Part; and

B) When complying with the requirements of subsection (c)(3)(B)(ii) of this Section, comply with the operating requirements prescribed by that subsection.

7) Extensions of time.

A) If the owner or operator does not submit a complete certification of compliance for all of the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 by August 21, 1992, the owner or operator must do the following:

i) Stop burning hazardous waste and begin closure activities under subsection (l) of this Section for the hazardous waste portion of the facility;

ii) Limit hazardous waste burning only for purposes of compliance testing (and pretesting to prepare for compliance testing) a total period of 720 hours for the period of time beginning August 21, 1992, submit a notification to the Agency by August 21, 1992 stating that the facility is operating under restricted interim status and

intends to resume burning hazardous waste, and submit a complete certification of compliance by August 23, 1993; or

iii) Obtain a case-by-case extension of time under subsection (c)(7)(B) of this Section.

B) Case-by-case extensions of time. See Section 726.219.

8) Revised certification of compliance. The owner or operator may submit at any time a revised certification of compliance (recertification of compliance) under the following procedures:

A) Prior to submittal of a revised certification of compliance, hazardous waste must not be burned for more than a total of 720 hours under operating conditions that exceed those established under a current certification of compliance, and such burning must be conducted only for purposes of determining whether the facility can operate under revised conditions and continue to meet the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207;

B) At least 30 days prior to first burning hazardous waste under operating conditions that exceed those established under a current certification of compliance, the owner or operator must notify the Agency and submit the following information:

i) USEPA facility ID number, and facility name, contact person, telephone number, and address;

ii) Operating conditions that the owner or operator is seeking to revise and description of the changes in facility design or operation that prompted the need to seek to revise the operating conditions;

iii) A determination that, when operating under the revised operating conditions, the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 are not likely to be exceeded. To document this determination, the

owner or operator must submit the applicable information required under subsection (b)(2) of this Section; and

iv) Complete emissions testing protocol for any pretesting and for a new compliance test to determine compliance with the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 when operating under revised operating conditions. The protocol must include a schedule of pre-testing and compliance testing. If the owner or operator revises the scheduled date for the compliance test, the owner or operator must notify the Agency in writing at least 30 days prior to the revised date of the compliance test;

C) Conduct a compliance test under the revised operating conditions and the protocol submitted to the Agency to determine compliance with the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207; and

D) Submit a revised certification of compliance under subsection (c)(4) of this Section.

d) Periodic Recertifications. The owner or operator must conduct compliance testing and submit to the Agency a recertification of compliance under provisions of subsection (c) of this Section within five~~three~~ years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, the owner or operator must comply with the requirements of subsection (c)(8) of this Section.

e) Noncompliance with certification schedule. If the owner or operator does not comply with the interim status compliance schedule provided by subsections (b), (c), and (d) of this Section, hazardous waste burning must terminate on the date that the deadline is missed, closure activities must begin under subsection (l) of this Section, and hazardous waste burning must not resume except under an operating permit issued under 35 Ill. Adm. Code 703.232. For purposes of compliance with the closure provisions of subsection (l) of this Section and 35 Ill. Adm. Code 725.212(d)(2) and 725.213, the BIF has received "the known final volume of hazardous waste" on the date the deadline is missed.

f) Start-up and shut-down. Hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted Tier I) feed rate screening limits for metals and chloride/chlorine) must not be fed into the device during start-up and shut-down of the BIF, unless the device is operating within the conditions of operation specified in the certification of compliance.

g) Automatic waste feed cutoff. During the compliance test required by subsection (c)(3) of this Section and upon certification of compliance under subsection (c) of this Section, a BIF must be operated with a functioning system that automatically cuts off the hazardous waste feed when the applicable operating conditions specified in subsections (c)(1)(A) and (c)(1)(E) through (c)(1)(M) of this Section deviate from those established in the certification of compliance. In addition, the following must occur:

1) To minimize emissions of organic compounds, the minimum combustion chamber temperature (or the indicator of combustion chamber temperature) that occurred during the compliance test must be maintained while hazardous waste or hazardous waste residues remain in the combustion chamber, with the minimum temperature during the compliance test defined as either of the following:

A) If compliance with the combustion chamber temperature limit is based on an~~a~~ hourly rolling average, the minimum temperature during the compliance test is considered to be the average over all runs of the lowest hourly rolling average for each run; or

B) If compliance with the combustion chamber temperature limit is based on an instantaneous temperature measurement, the minimum temperature during the compliance test is considered to be the time-weighted average temperature during all runs of the test; and

2) Operating parameters limited by the certification of compliance must continue to be monitored during the cutoff, and the hazardous waste feed must not be restarted until the levels of those parameters comply with the limits established in the certification of compliance.

h) Fugitive emissions. Fugitive emissions must be controlled as follows:

1) By keeping the combustion zone totally sealed against fugitive emissions;

or

2) By maintaining the combustion zone pressure lower than atmospheric pressure; or

3) By an alternative means of control that the owner or operator demonstrates provides fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure. Support for such demonstration must be included in the operating record.

i) Changes. A BIF must cease burning hazardous waste when combustion properties, or feed rates of the hazardous waste, other fuels or industrial furnace feedstocks, or the BIF design or operating conditions deviate from the limits specified in the certification of compliance.

j) Monitoring and Inspections.

1) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:

A) Feed rates and composition of hazardous waste, other fuels, and industrial furnace feed stocks and feed rates of ash, metals, and total chlorine and chloride as necessary to ensure conformance with the certification of precompliance or certification of compliance;

B) CO, oxygen, and, if applicable, HC on a continuous basis at a common point in the BIF downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with the operating limits specified in the certification of compliance. CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix I to this Part; and

C) Upon the request of the Agency, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feed stocks as appropriate) and the stack gas emissions must be conducted to verify that the operating conditions established in the certification of precompliance or certification of compliance achieve the

applicable standards of Sections 726.204, 726.205, 726.206, and 726.207.

2) The BIF and associated equipment (pumps, valves, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when they contain hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

3) The automatic hazardous waste feed cutoff system and associated alarms must be tested at least once every seven days when hazardous waste is burned to verify operability, unless the owner or operator can demonstrate that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. Support for such demonstration must be included in the operating record. At a minimum, operational testing must be conducted at least once every 30 days.

4) These monitoring and inspection data must be recorded and the records must be placed in the operating log.

k) Recordkeeping. The owner or operator must keep in the operating record of the facility all information and data required by this Section for five years~~until closure of the BIF unit~~.

l) Closure. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters and scrubber sludges) from the BIF and must comply with 35 Ill. Adm. Code 725.211 through 725.215.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.205 Standards to Control PM

a) A BIF burning hazardous waste must not emit PM in excess of 180 mg/dry standard m^3 (0.08 grains/dry standard cubic foot) after correction to a stack gas concentration of seven percent oxygen, using procedures prescribed in the following methods in appendix A to 40 CFR 60 (Test Methods), each incorporated by reference in 35 Ill. Adm. Code 720.111(b) (see Appendix I of this Part): Method 1 (Sample and Velocity Traverses for Stationary Sources), Method 2 (Determination of Volatile Organic Compound Leaks), Method 2A (Direct

Measurement of Gas Volume through Pipes and Small Ducts), Method 2B (Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators), Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), Method 2E (Determination of Landfill Gas Production Flow Rate), Method 2F (Determination of Stack Gas Velocity and Volumetric Flow Rate with Three-Dimensional Probes), Method 2G (Determination of Stack Gas Velocity and Volumetric Flow Rate with Two-Dimensional Probes), Method 2H (Determination of Stack Gas Velocity Taking into Account Velocity Decay Near the Stack Wall), Method 3 (Gas Analysis for the Determination of Dry Molecular Weight), Method 3A (Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)), Method 3B (Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air), Method 3C (Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources), Method 4 (Determination of Moisture Content in Stack Gases), Method 5 (Determination of Particulate Matter Emissions from Stationary Sources), Method 5A (Determination of Particulate Matter Emissions from the Asphalt Processing and Asphalt Roofing Industry), Method 5B (Determination of Nonsulfuric Acid Particulate Matter Emissions from Stationary Sources), Method 5D (Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters), Method 5E (Determination of Particulate Matter Emissions from the Wool Fiberglass Insulation Manufacturing Industry), Method 5F (Determination of Nonsulfate Particulate Matter Emissions from Stationary Sources), Method 5G (Determination of Particulate Matter Emissions from Wood Heaters (Dilution Tunnel Sampling Location)), Method 5H (Determination of Particulate Emissions from Wood Heaters from a Stack Location), and Method 5I (Determination of Low Level Particulate Matter Emissions from Stationary Sources).

b) An owner or operator meeting the requirements of Section 726.209(b) for the low risk waste exemption is exempt from the PM standard.

c) Oxygen correction.

1) Measured pollutant levels must be corrected for the amount of oxygen in the stack gas according to the following formula:

$$P_c = \frac{P_m \times 14}{E - Y}$$

$$\cancel{P_c = P_m \times 14/(E - Y)}$$

Where:

P_c = the corrected concentration of the pollutant in the stack gas
P_m = the measured concentration of the pollutant in the stack gas
E = the oxygen concentration on a dry basis in the combustion air fed to the device
Y = the measured oxygen concentration on a dry basis in the stack~~.~~

2) For devices that feed normal combustion air, E will equal 21 percent. For devices that feed oxygen-enriched air for combustion (that is, air with an oxygen concentration exceeding 21 percent), the value of E will be the concentration of oxygen in the enriched air.

3) Compliance with all emission standards provided by this Subpart H must be based on correcting to seven percent oxygen using this procedure.

d) For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under Section 726.202) will be regarded as compliance with this Section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this Section is "information" justifying modification or revocation and re-issuance of a permit under 35 Ill. Adm. Code 703.270 through 703.273.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.206 Standards to Control Metals Emissions

a) General. The owner or operator must comply with the metals standards provided by subsections (b), (c), (d), (e), or (f) of this Section for each metal listed in subsection (b) of this Section that is present in the hazardous waste at detectable levels using 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.

b) Tier I feed rate screening limits. Feed rate screening limits for metals are specified in Appendix A to this Part as a function of terrain-adjusted effective stack height (TESH) and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in subsection (b)(7) of this Section.

1) Noncarcinogenic metals. The feed rates of the noncarcinogenic metals in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks must not exceed the screening limits specified in Appendix A to this Part.

A) The feed rate screening limits for antimony, barium, mercury, thallium, and silver are based on either of the following:

i) An hourly rolling average, as defined in Sections 726.200(g) and 726.202(e)(6)(A)(ii); or

ii) An instantaneous limit not to be exceeded at any time.

B) The feed rate screening limit for lead is based on one of the following:

i) An hourly rolling average, as defined in Sections 726.200(g) and 726.202(e)(6)(A)(ii);

ii) An averaging period of 2 to 24 hours, as defined in Section 726.202(e)(6)(B) with an instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed on an hourly rolling average basis; or

iii) An instantaneous limit not to be exceeded at any time.

2) Carcinogenic metals.

A) The feed rates of carcinogenic metals in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks must not exceed values derived from the screening limits specified in Appendix A to this Part. The feed rate of each of these metals is limited to a level such that the sum of the ratios of the actual feed rate to the feed rate screening limit specified in Appendix A to this Part must not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^{n} \frac{A_i}{F_i} \leq 1.0$$

Where:

$\Sigma A_i/F_i$ = the sum of the values of A/F for each metal "i," from i = 1 to n
n = number of carcinogenic metals
A_i = the actual feed rate to the device for metal "i"
F_i = the feed rate screening limit provided by Appendix A to this Part for metal "i."

B) The feed rate screening limits for the carcinogenic metals are based on either:

i) An hourly rolling average; or

ii) An averaging period of two to 24 hours, as defined in Section 726.202(e)(6)(B), with an instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed on an hourly rolling average basis.

3) TESH (terrain adjusted effective stack height).

A) The TESH is determined according to the following equation:

$$TESH = H + P - T$$

Where:

H = Actual physical stack height (m).
P = Plume rise (in m) as determined from Appendix F to this Part as a function of stack flow rate and stack gas exhaust temperature.
T = Terrain rise (in m) within five kilometers of the stack.

B) The stack height (H) must not exceed good engineering practice stack height, as defined in Section 726.200(i).

C) If the TESH calculated pursuant to subsection (b)(3)(A) of this Section is not listed in Appendix A through Appendix C to this Part, the values for the nearest lower TESH listed in the table must be used. If the TESH is four meters or less, a value based on four meters must be used.

4) Terrain type. The screening limits are a function of whether the facility is located in noncomplex or complex terrain. A device located where any part of the surrounding terrain within five kilometers of the stack equals or exceeds the elevation of the physical stack height (H) is considered to be in complex terrain and the screening limits for complex terrain apply. Terrain measurements are to be made from U.S. Geological Survey 7.5-minute topographic maps of the area surrounding the facility.

5) Land use. The screening limits are a function of whether the facility is located in an area where the land use is urban or rural. To determine whether land use in the vicinity of the facility is urban or rural, procedures provided in Appendix I or Appendix J to this Part must be used.

6) Multiple stacks. An owner or operator of a facility with more than one on-site stack from a BIF, incinerator, or other thermal treatment unit subject

to controls of metals emissions under a RCRA permit or interim status controls must comply with the screening limits for all such units assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics. The stack with the lowest value of K is the worst-case stack. K is determined from the following equation as applied to each stack:

$$K = H \times V \times T$$

Where:

K = a parameter accounting for relative influence of stack height and plume rise
H = physical stack height (meters)
V = stack gas flow rate (m^3/sec (cubic meters per second)
T = exhaust temperature (degrees K).

7) Criteria for facilities not eligible for screening limits. If any criteria below are met, the Tier I (and Tier II) screening limits do not apply. Owners and operators of such facilities must comply with either the Tier III standards provided by subsection (d) of this Section or with the adjusted Tier I feed rate screening limits provided by subsection (e) of this Section.

A) The device is located in a narrow valley less than one kilometer wide;

B) The device has a stack taller than 20 meters and is located such that the terrain rises to the physical height within one kilometer of the facility;

C) The device has a stack taller than 20 meters and is located within five kilometers of a shoreline of a large body of water such as an ocean or large lake; or

D) The physical stack height of any stack is less than 2.5 times the height of any building within five building heights or five projected building widths of the stack and the distance from the stack to the closest boundary is within five building heights or five

projected building widths of the associated building.

8) Implementation. The feed rate of metals in each feedstream must be monitored to ensure that the feed rate screening limits are not exceeded.

c) Tier II emission rate screening limits. Emission rate screening limits are specified in Appendix A to this Part as a function of TESH and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in subsection (b)(7) of this Section.

1) Noncarcinogenic metals. The emission rates of noncarcinogenic metals must not exceed the screening limits specified in Appendix A to this Part.

2) Carcinogenic metals. The emission rates of carcinogenic metals must not exceed values derived from the screening limits specified in Appendix A to this Part. The emission rate of each of these metals is limited to a level such that the sum of the ratios of the actual emission rate to the emission rate screening limit specified in Appendix A to this Part must not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^{n} \frac{A_i}{E_i} \leq 1.0$$

Where:

$\Sigma A_i/E_i$	=	the sum of the values of A/E for each metal "i," from i = 1 to n
n	=	number of carcinogenic metals
A_i	=	the actual emission rate to the device for metal "i"
E_i	=	the emission rate screening limit provided by Appendix A to this Part for metal "i."

3) Implementation. The emission rate limits must be implemented by limiting feed rates of the individual metals to levels during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate averaging periods are the same as provided by subsections (b)(1)(A), (b)(1)(B), and (b)(2)(B) of this Section. The feed rate of metals in each feedstream must

be monitored to ensure that the feed rate limits for the feedstreams specified under Sections 726.202 or 726.203 are not exceeded.

4) Definitions and limitations. The definitions and limitations provided by subsection (b) of this Section and 726.200(g) for the following terms also apply to the Tier II emission rate screening limits provided by this subsection (c): TESH, good engineering practice stack height, terrain type, land use, and criteria for facilities not eligible to use the screening limits.

5) Multiple stacks.

A) An owner or operator of a facility with more than one on-site stack from a BIF, incinerator, or other thermal treatment unit subject to controls on metals emissions under a RCRA permit or interim status controls must comply with the emissions screening limits for any such stacks assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics.

B) The worst-case stack is determined by procedures provided in subsection (b)(6) of this Section.

C) For each metal, the total emissions of the metal from those stacks must not exceed the screening limit for the worst-case stack.

d) Tier III site-specific risk assessment. The requirements of this subsection (d) apply to facilities complying with either the Tier III or Adjusted Tier I except where specified otherwise.

1) General. Conformance with the Tier III metals controls must be demonstrated by emissions testing to determine the emission rate for each metal. In addition, conformance with either Tier III or Adjusted Tier I metals controls must be demonstrated by air dispersion modeling to predict the maximum annual average off-site ground level concentration for each metal and a demonstration that acceptable ambient levels are not exceeded.

2) Acceptable ambient levels. Appendix D and Appendix E to this Part list the acceptable ambient levels for purposes of this Subpart H. Reference

air concentrations (RACs) are listed for the noncarcinogenic metals and $1x10^{-5}$ RSDs are listed for the carcinogenic metals. The RSD for a metal is the acceptable ambient level for that metal provided that only one of the four carcinogenic metals is emitted. If more than one carcinogenic metal is emitted, the acceptable ambient level for the carcinogenic metals is a fraction of the RSD, as described in subsection (d)(3) of this Section.

3) Carcinogenic metals. For the carcinogenic metals the sum of the ratios of the predicted maximum annual average off-site ground level concentrations (except that on-site concentrations must be considered if a person resides on site) to the RSD for all carcinogenic metals emitted must not exceed 1.0 as determined by the following equation:

$$\sum_{i=1}^{n} \frac{P_i}{R_i} \leq 1.0$$

Where:

$\Sigma P_i/R_i$ = the sum of the values of P/R for each metal "i," from i = 1 to n
n = number of carcinogenic metals
P_i = the predicted ambient concentration for metal i
R_i = the RSD for metal i~~.~~

4) Noncarcinogenic metals. For the noncarcinogenic metals, the predicted maximum annual average off-site ground level concentration for each metal must not exceed the RAC.

5) Multiple stacks. Owners and operators of facilities with more than one on-site stack from a BIF, incinerator, or other thermal treatment unit subject to controls on metals emissions under a RCRA permit or interim status controls must conduct emissions testing (except that facilities complying with Adjusted Tier I controls need not conduct emissions testing) and dispersion modeling to demonstrate that the aggregate emissions from all such on-site stacks do not result in an exceedance~~exceedence~~ of the acceptable ambient levels.

6) Implementation. Under Tier III, the metals controls must be implemented by limiting feed rates of the individual metals to levels during the trial

burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate averaging periods are the same as provided by subsections (b)(1)(A), (b)(1)(B), and (b)(2)(B) of this Section. The feed rate of metals in each feedstream must be monitored to ensure that the feed rate limits for the feedstreams specified under Sections 726.202 or 726.203 are not exceeded.

e) Adjusted Tier I feed rate screening limits. The owner or operator may adjust the feed rate screening limits provided by Appendix A to this Part to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit for a metal is determined by back-calculating from the acceptable ambient levels provided by Appendix D and Appendix E to this Part using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit. The feed rate screening limits for carcinogenic metals are implemented as prescribed in subsection (b)(2) of this Section.

f) Alternative implementation approaches.

1) Pursuant to subsection (f)(2) of this Section the Agency must approve on a case-by-case basis approaches to implement the Tier II or Tier III metals emission limits provided by subsection (c) or (d) of this Section alternative to monitoring the feed rate of metals in each feedstream.

2) The emission limits provided by subsection (d) of this Section must be determined as follows:

A) For each noncarcinogenic metal, by back-calculating from the RAC provided in Appendix D to this Part to determine the allowable emission rate for each metal using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with subsection (h) of this Section; and

B) For each carcinogenic metal by the following methods:

i) By back-calculating from the RSD provided in Appendix E to this Part to determine the allowable emission rate for

each metal if that metal were the only carcinogenic metal emitted using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with subsection (h) of this Section; and

ii) If more than one carcinogenic metal is emitted, by selecting an emission limit for each carcinogenic metal not to exceed the emission rate determined by subsection (f)(2)(B)(i) of this Section, such that the sum for all carcinogenic metals of the ratios of the selected emission limit to the emission rate determined by that subsection does not exceed 1.0.

g) Emission testing.

1) General. Emission testing for metals must be conducted using Method 0060 (Determinations of Metals in Stack Emissions) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

2) Hexavalent chromium. Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in Method 0061 (Determination of Hexavalent Chromium Emissions from Stationary Sources) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

h) Dispersion modeling. Dispersion modeling required under this Section must be conducted according to methods recommended in federal appendix W to 40 CFR 51 (Guideline on Air Quality Models), in section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), or in "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," USEPA publication number EPA-454/R-92-019, each incorporated by reference in 35 Ill. Adm. Code 720.111(b), to predict the maximum annual average off-site ground level concentration. However, on-site concentrations must be considered when a person resides on-site.

i) Enforcement. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under Section 726.202) will be regarded as compliance with this Section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this Section is "information" justifying modification or revocation and re-issuance of a permit under 35 Ill. Adm. Code 703.270 through 703.273.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.207 Standards to Control HCl and Chlorine Gas Emissions

a) General. The owner or operator must comply with the HCl and chlorine gas controls provided by subsection (b), (c), or (e) of this Section.

b) Screening limits.

1) Tier I feed rate screening limits. Feed rate screening limits are specified for total chlorine in Appendix B to this Part as a function of TESH and terrain and land use in the vicinity of the facility. The feed rate of total chlorine and chloride, both organic and inorganic, in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks must not exceed the levels specified.

2) Tier II emission rate screening limits. Emission rate screening limits for HCl and chlorine gas are specified in Appendix C to this Part as a function of TESH and terrain and land use in the vicinity of the facility. The stack emission rates of HCl and chlorine gas must not exceed the levels specified.

3) Definitions and limitations. The definitions and limitations provided by Sections 726.200(i) and 726.206(b) for the following terms also apply to the screening limits provided by this subsection: TESH, good engineering practice stack height, terrain type, land use, and criteria for facilities not eligible to use the screening limits.

4) Multiple stacks. Owners and operators of facilities with more than one on-site stack from a BIF, incinerator or other thermal treatment unit subject to controls on HCl or chlorine gas emissions under a RCRA permit

or interim status controls must comply with the Tier I and Tier II screening limits for those stacks assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics.

A) The worst-case stack is determined by procedures provided in Section 726.206(b)(6).

B) Under Tier I, the total feed rate of chlorine and chloride to all subject devices must not exceed the screening limit for the worst-case stack.

C) Under Tier II, the total emissions of HCl and chlorine gas from all subject stacks must not exceed the screening limit for the worst-case stack.

c) Tier III site-specific risk assessments.

1) General. Conformance with the Tier III controls must be demonstrated by emissions testing to determine the emission rate for HCl and chlorine gas, air dispersion modeling to predict the maximum annual average off-site ground level concentration for each compound, and a demonstration that acceptable ambient levels are not exceeded.

2) Acceptable ambient levels. Appendix D to this Part lists the RACs for HCl (7 $\mu g/m^3$) and chlorine gas (0.4 $\mu g/m^3$).

3) Multiple stacks. Owners and operators of facilities with more than one on-site stack from a BIF, incinerator, or other thermal treatment unit subject to controls on HCl or chlorine gas emissions under a RCRA permit or interim status controls must conduct emissions testing and dispersion modeling to demonstrate that the aggregate emissions from all such on-site stacks do not result in an exceedance~~exceedence~~ of the acceptable ambient levels for HCl and chlorine gas.

d) Averaging periods. The HCl and chlorine gas controls are implemented by limiting the feed rate of total chlorine and chloride in all feedstreams, including hazardous waste, fuels, and industrial furnace feed stocks. Under Tier I, the feed rate of total chlorine and chloride is limited to the Tier I Screening Limits. Under Tier II and Tier III, the feed rate of total chlorine and chloride is limited to the

feed rates during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate limits are based on either of the following:

1) An hourly rolling average, as defined in Sections 726.200(i) and 726.202(e)(6); or

2) An instantaneous basis not to be exceeded at any time.

e) Adjusted Tier I feed rate screening limits. The owner or operator may adjust the feed rate screening limit provided by Appendix B to this Part to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit is determined by back-calculating from the acceptable ambient level for chlorine gas provided by Appendix D to this Part using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit.

f) Emissions testing. Emissions testing for HCl and chlorine gas (Cl_2) must be conducted using the procedures described in Method 0050 or 0051, in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

g) Dispersion modeling. Dispersion modeling must be conducted according to the provisions of Section 726.206(h).

h) Enforcement. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under Section 726.202) will be regarded as compliance with this Section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this Section is "information" justifying modification or revocation and re-issuance of a permit under 35 Ill. Adm. Code 703.270 through 703.273.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.209 Low Risk Waste Exemption

a) Waiver of DRE standard. The DRE standard of Section 726.204(a) does not apply if the BIF is operated in conformance with subsection (a)(1) of this Section,

and the owner or operator demonstrates by procedures prescribed in subsection (a)(2) of this Section, that the burning will not result in unacceptable adverse health effects.

1) The device must be operated as follows:

A) A minimum of 50 percent of fuel fired to the device must be fossil fuel, fuels derived from fossil fuel, tall oil, or, if approved by the Agency on a case-by-case basis, other nonhazardous fuel with combustion characteristics comparable to fossil fuel. Such fuels are termed "primary fuel" for purposes of this Section. (Tall oil is a fuel derived from vegetable and rosin fatty acids.) The 50 percent primary fuel firing rate must be determined on a total heat or mass input basis, whichever results in the greater mass feed rate of primary fuel fired;

B) Primary fuels and hazardous waste fuels must have a minimum as-fired heating value of 8,000 Btu/lb;

C) The hazardous waste is fired directly into the primary fuel flame zone of the combustion chamber; and

D) The device operates in conformance with the CO controls provided by Section 726.204(b)(1). Devices subject to the exemption provided by this Section are not eligible for the alternative CO controls provided by Section 726.204(c).

2) Procedures to demonstrate that the hazardous waste burning will not pose unacceptable adverse public health effects are as follows:

A) Identify and quantify those nonmetal compounds listed in Appendix H to 35 Ill. Adm. Code 721, that could reasonably be expected to be present in the hazardous waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained;

B) Calculate reasonable, worst case emission rates for each constituent identified in subsection (a)(2)(A) of this Section, by assuming the device achieves 99.9 percent destruction and removal

efficiency. That is, assume that 0.1 percent of the mass weight of each constituent fed to the device is emitted.

C) For each constituent identified in subsection (a)(2)(A) of this Section, use emissions dispersion modeling to predict the maximum annual average ground level concentration of the constituent.

i) Dispersion modeling must be conducted using methods specified in Section 726.206(h).

ii) An owner or operator of a facility with more than one on-site stack from a BIF that is exempt under this Section must conduct dispersion modeling of emissions from all stacks exempt under this Section to predict ambient levels prescribed by this subsection (a)(2).

D) Ground level concentrations of constituents predicted under subsection (a)(2)(C) of this Section, must not exceed the following levels:

i) For the noncarcinogenic compounds listed in Appendix D, the levels established in Appendix D;

ii) For the carcinogenic compounds listed in Appendix E:

$$\sum_{i=1}^{n} \frac{A_i}{L_i} \leq 1.0$$

Where:

$\Sigma(A_i/L_i)$	means the sum of the values of X for each carcinogen i, from i = 1 to n~~.~~
n	means the number of carcinogenic compounds~~;~~
A_i	Actual ground level concentration of carcinogen "i~~.~~"
L_i	Level established in Appendix E for carcinogen "i".~~; and~~

iii) For constituents not listed in Appendix D or E, 0.1 μg/m³ .

b) Waiver of particulate~~particular~~ matter standard. The PM standard of Section 726.205 does not apply if the following occur:

1) The DRE standard is waived under subsection (a) of this Section; and

2) The owner or operator complies with the Tier I, or adjusted Tier I, metals feed rate screening limits provided by Section 726.206(b) or (e).

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.APPENDIX A Tier I and Tier II Feed Rate and Emissions Screening Limits for Metals

I-A
Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Noncomplex Terrain ~~[Values for urban areas]~~

Values for Urban Areas

TESH (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	60.	10000.	18.	60.	600.	60.
6	68.	11000.	20.	68.	680.	68.
8	76.	13000.	23.	76.	760.	76.
10	86.	14000.	26.	86.	860.	86.
12	96.	17000.	30.	96.	960.	96.
14	110.	18000.	34.	110.	1100.	110.
16	130.	21000.	36.	130.	1300.	130.
18	140.	24000.	43.	140.	1400.	140.
20	160.	27000.	46.	160.	1600.	160.
22	180.	30000.	54.	180.	1800.	180.
24	200.	34000.	60.	200.	2000.	200.
26	230.	39000.	68.	230.	2300.	230.
28	260.	43000.	78.	260.	2600.	260.
30	300.	50000.	90.	300.	3000.	300.
35	400.	66000.	110.	400.	4000.	400.
40	460.	78000.	140.	460.	4600.	460.
45	600.	100000.	180.	600.	6000.	600.
50	780.	130000.	230.	780.	7800.	780.
55	960.	170000.	300.	960.	9600.	960.
60	1200.	200000.	360.	1200.	12000.	1200.
65	1500.	250000.	430.	1500.	15000.	1500.
70	1700.	280000.	500.	1700.	17000.	1700.
75	1900.	320000.	580.	1900.	19000.	1900.
80	2200.	360000.	640.	2200.	22000.	2200.
85	2500.	400000.	760.	2500.	25000.	2500.
90	2800.	460000.	820.	2800.	28000.	2800.

95	3200.	540000.	960.	3200.	32000.	3200.
100	3600.	600000.	1100.	3600.	36000.	3600.
105	4000.	680000.	1200.	4000.	40000.	4000.
110	4600.	780000.	1400.	4600.	46000.	4600.
115	5400.	860000.	1600.	5400.	54000.	5400.
120	6000.	1000000.	1800.	6000.	60000.	6000.

I-B

Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Noncomplex Terrain ~~[Values for rural areas]~~

Values for Rural Areas

TESH (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	31.	5200.	9.4	31.	310.	31.
6	36.	6000.	11.	36.	360.	36.
8	40.	6800.	12.	40.	400.	40.
10	46.	7800.	14.	46.	460.	46.
12	58.	9600.	17.	58.	580.	58.
14	68.	11000.	21.	68.	680.	68.
16	86.	14000.	26.	86.	860.	86.
18	110.	18000.	32.	110.	1100.	110.
20	130.	22000.	40.	130.	1300.	130.
22	170.	28000.	50.	170.	1700.	170.
24	220.	36000.	64.	220.	2200.	220.
26	280.	46000.	82.	280.	2800.	280.
28	350.	58000.	100.	350.	3500.	350.
30	430.	76000.	130.	430.	4300.	430.
35	720.	120000.	210.	720.	7200.	720.
40	1100.	180000.	320.	1100.	11000.	1100.
45	1500.	250000.	460.	1500.	15000.	1500.
50	2000.	330000.	600.	2000.	20000.	2000.
55	2600.	440000.	780.	2600.	26000.	2600.
60	3400.	580000.	1000.	3400.	34000.	3400.
65	4600.	760000.	1400.	4600.	46000.	4600.
70	5400.	900000.	1600.	5400.	54000.	5400.
75	6400.	1100000.	1900.	6400.	64000.	6400.

80	7600.	1300000.	2300.	7600.	76000.	7600.
85	9400.	1500000.	2800.	9400.	94000.	9400.
90	11000.	1800000.	3300.	11000.	110000.	11000.
95	13000.	2200000.	3900.	13000.	130000.	13000.
100	15000.	2600000.	4600.	15000.	150000.	15000.
105	18000.	3000000.	5400.	18000.	180000.	18000.
110	22000.	3600000.	6600.	22000.	220000.	22000.
115	26000.	4400000.	7800.	26000.	260000.	26000.
120	31000.	5000000.	9200.	31000.	310000.	31000.

I-C

Tier I and Tier II Feed Rate and Emissions Screening Limits for Noncarcinogenic Metals for Facilities in Complex Terrain

Values for Urban~~urban~~ and Rural Areas~~rural areas~~

TESH (m)	Antimony (g/hr)	Barium (g/hr)	Lead (g/hr)	Mercury (g/hr)	Silver (g/hr)	Thallium (g/hr)
4	14.	2400.	4.3	14.	140.	14.
6	21.	3500.	6.2	21.	210.	21.
8	30.	5000.	9.2	30.	300.	30.
10	43.	7600.	13.	43.	430.	43.
12	54.	9000.	17.	54.	540.	54.
14	68.	11000.	20.	68.	680.	68.
16	78.	13000.	24.	78.	780.	78.
18	86.	14000.	26.	86.	860.	86.
20	96.	16000.	29.	96.	960.	96.
22	100.	18000.	32.	100.	1000.	100.
24	120.	19000.	35.	120.	1200.	120.
26	130.	22000.	36.	130.	1300.	130.
28	140.	24000.	43.	140.	1400.	140.
30	160.	27000.	46.	160.	1600.	160.
35	200.	33000.	58.	200.	2000.	200.
40	240.	40000.	72.	240.	2400.	240.
45	300.	50000.	90.	300.	3000.	300.
50	360.	60000.	110.	360.	3600.	360.
55	460.	76000.	140.	460.	4600.	460.
60	580.	94000.	170.	580.	5800.	580.

65	680.	110000.	210.	680.	6800.	680.
70	780.	130000.	240.	780.	7800.	780.
75	860.	140000.	260.	860.	8600.	860.
80	960.	160000.	290.	960.	9600.	960.
85	1100.	180000.	330.	1100.	11000.	1100.
90	1200.	200000.	360.	1200.	12000.	1200.
95	1400.	230000.	400.	1400.	14000.	1400.
100	1500.	260000.	460.	1500.	15000.	1500.
105	1700.	280000.	500.	1700.	17000.	1700.
110	1900.	320000.	580.	1900.	19000.	1900.
115	2100.	360000.	640.	2100.	21000.	2100.
120	2400.	400000.	720.	2400.	24000.	2400.

I-D

Tier I and Tier II Feed Rate and Emissions Screening Limits for Carcinogenic Metals for Facilities in Noncomplex Terrain

	Values for use in urban areas				Values for use in rural areas			
TESH (m)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)
4	0.46	1.1	0.17	0.82	0.24	0.58	0.086	0.43
6	0.54	1.3	0.19	0.94	0.28	0.66	0.10	0.50
8	0.60	1.4	0.22	1.1	0.32	0.76	0.11	0.56
10	0.68	1.6	0.24	1.2	0.36	0.86	0.13	0.64
12	0.76	1.8	0.27	1.4	0.43	1.1	0.16	0.78
14	0.86	2.1	0.31	1.5	0.54	1.3	0.20	0.96
16	0.96	2.3	0.35	1.7	0.68	1.6	0.24	1.2
18	1.1	2.6	0.40	2.0	0.82	2.0	0.30	1.5
20	1.2	3.0	0.44	2.2	1.0	2.5	0.37	1.9
22	1.4	3.4	0.50	2.5	1.3	3.2	0.48	2.4
24	1.6	3.9	0.58	2.8	1.7	4.0	0.60	3.0
26	1.8	4.3	0.64	3.2	2.1	5.0	0.76	3.9
28	2.0	4.8	0.72	3.6	2.7	6.4	0.98	5.0
30	2.3	5.4	0.82	4.0	3.5	8.2	1.2	6.2
35	3.0	6.8	1.0	5.4	5.4	13.	1.9	9.6

40	3.6	9.0	1.3	6.8	8.2	20.	3.0	15.
45	4.6	11.	1.7	8.6	11.	28.	4.2	21.
50	6.0	14.	2.2	11.	15.	37.	5.4	28.
55	7.6	18.	2.7	14.	20.	50.	7.2	36.
60	9.4	22.	3.4	17.	27.	64.	9.6	48.
65	11.	28.	4.2	21.	36.	86.	13.	64.
70	13.	31.	4.6	24.	43.	100.	15.	76.
75	15.	36.	5.4	27.	50.	120.	18.	90.
80	17.	40.	6.0	30.	60.	140.	22.	110.
85	19.	46.	6.8	34.	72.	170.	26.	130.
90	22.	50.	7.8	39.	86.	200.	30.	150.
95	25.	58.	9.0	44.	100.	240.	36.	180.
100	28.	68.	10.	50.	120.	290.	43.	220.
105	32.	76.	11.	56.	140.	340.	50.	260.
110	36.	86.	13.	64.	170.	400.	60.	300.
115	40.	96.	15.	72.	200.	480.	72.	360.
120	46.	110.	17.	82.	240.	580.	86.	430.

I-E

Tier I and Tier II Feed Rate and Emissions Screening Limits for Carcinogenic Metals for Facilities in Complex Terrain

Values for Use~~use~~ in Urban~~urban~~ and Rural Areas~~rural areas~~

TESH (m)	Arsenic (g/hr)	Cadmium (g/hr)	Chromium (g/hr)	Beryllium (g/hr)
4	0.11	0.26	0.040	0.20
6	0.16	0.39	0.058	0.29
8	0.24	0.58	0.086	0.43
10	0.35	0.82	0.13	0.62
12	0.43	1.0	0.15	0.76
14	0.50	1.3	0.19	0.94
16	0.60	1.4	0.22	1.1
18	0.68	1.6	0.24	1.2
20	0.76	1.8	0.27	1.3
22	0.82	1.9	0.30	1.5
24	0.90	2.1	0.33	1.6
26	1.0	2.4	0.36	1.8
28	1.1	2.7	0.40	2.0

30	1.2	3.0	0.44	2.2
35	1.5	3.7	0.54	2.7
40	1.9	4.6	0.68	3.4
45	2.4	5.4	0.84	4.2
50	2.9	6.8	1.0	5.0
55	3.5	8.4	1.3	6.4
60	4.3	10.	1.5	7.8
65	5.4	13.	1.9	9.6
70	6.0	14.	2.2	11.
75	6.8	16.	2.4	12.
80	7.6	18.	2.7	13.
85	8.2	20.	3.0	15.
90	9.4	23.	3.4	17.
95	10.	25.	4.0	19.
100	12.	28.	4.3	21.
105	13.	32.	4.8	24.
110	15.	35.	5.4	27.
115	17.	40.	6.0	30.
120	19.	44.	6.4	33.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.APPENDIX C Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

	Noncomplex Terrain Urban areas		Noncomplex Terrain Rural areas		Complex Terrain Urban and rural areas	
TESH (m)	Chlorine Gas (g/hr)	HCl (g/hr)	Chlorine Gas (g/hr)	HCl (g/hr)	Chlorine gas (g/hr)	HCl (g/hr)
4	82.	1400.	42.	730.	19.	330.
6	91.	1600.	48.	830.	28.	490.
8	100.	1800.	53.	920.	41.	710.
10	120.	2000.	62.	1100.	58.	1000.
12	130.	2300.	77.	1300.	72.	1300.
14	150.	2600.	91.	1600.	91.	1600.
16	170.	2900.	120.	2000.	110.	1800.
18	190.	3300.	140.	2500.	120.	2000.
20	210.	3700.	180.	3100.	130.	2300.
22	240.	4200.	230.	3900.	140.	2400.
24	270.	4800.	290.	5000.	160.	2800.
26	310.	5400.	370.	6500.	170.	3000.
28	350.	6000.	470.	8100.	190.	3400.
30	390.	6900.	580.	10000.	210.	3700.
35	530.	9200.	960.	17000.	260.	4600.
40	620.	11000.	1400.	25000.	330.	5700.
45	820.	14000.	2000.	35000.	400.	7000.
50	1100.	18000.	2600.	46000.	480.	8400.
55	1300.	23000.	3500.	61000.	620.	11000.
60	1600.	29000.	4600.	81000.	770.	13000.
65	2000.	34000.	6200.	110000.	910.	16000.
70	2300.	39000.	7200.	130000.	1100.	18000.
75	2500.	45000.	8600.	150000.	1200.	20000.
80	2900.	50000.	10000.	180000.	1300.	23000.
85	3300.	58000.	12000.	220000.	1400.	25000.
90	3700.	66000.	14000.	250000.	1600.	29000.
95	4200.	74000.	17000.	300000.	1800.	32000.
100	4800.	84000.	21000.	360000.	2000.	35000.
105	5300.	92000.	24000.	430000.	2300.	39000.
110	6200.	110000.	29000.	510000.	2500.	45000.
115	7200.	130000.	35000.	610000.	2800.	50000.

120	8200.	140000.	41000.	720000.	3200.	56000.

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.APPENDIX D Reference Air Concentrations

BOARD NOTE: The RAC for other Appendix H to 35 Ill. Adm. Code 721 constituents not listed below or in Appendix E is 0.1 μg/m^3.

Constituent	CAS No.	RAC (μg/m^3)
Acetaldehyde	75-07-0	10
Acetonitrile	75-05-8	10
Acetophenone	98-86-2	100
Acrolein	107-02-8	20
Aldicarb	116-06-3	1
Aluminum Phosphide	20859-73-8	0.3
Allyl Alcohol	107-18-6	5
Antimony	7440-36-0	0.3
Barium	7440-39-3	50
Barium Cyanide	542-62-1	50
Bromomethane	74-83-9	0.8
Calcium Cyanide	592-01-8	30
Carbon Disulfide	75-15-0	200
Chloral	75-87-6	2
Chlorine (free)		0.4
2-Chloro-1,3-butadiene	126-99-8	3
Chromium III	16065-83-1	1000
Copper Cyanide	544-92-3	5
Cresols	1319-77-3	50
Cumene	98-82-8	1
Cyanide (free)	57-12-15	20
Cyanogen	460-19-5	30
Cyanogen Bromide	506-68-3	80
Di-n-butyl Phthalate	84-74-2	100
o-Dichlorobenzene	95-50-1	10
p-Dichlorobenzene	106-46-7	10
Dichlorodifluoromethane	75-71-8	200
2,4-Dichlorophenol	120-83-2	3
Diethyl Phthalate	84-66-2	800
Dimethoate	60-51-5	0.8
2,4-Dinitrophenol	51-28-5	2
Dinoseb	88-85-7	0.9

Diphenylamine	122-39-4	20
Endosulfan	115-29-1	0.05
Endrin	72-20-8	0.3
Fluorine	7782-41-4	50
Formic Acid	64-18-6	2000
Glycidylaldehyde	765-34-4	0.3
Hexachlorocyclopentadiene	77-47-4	5
Hexachlorophene	70-30-4	0.3
Hydrocyanic Acid	74-90-8	20
Hydrogen Chloride	7647-01-1	7
Hydrogen Sulfide	7783-06-4	3
Isobutyl Alcohol	78-83-1	300
Lead	7439-92-1	0.09
Maleic Anhydride	108-31-6	100
Mercury	7439-97-6	0.3
Methacrylonitrile	126-98-7	0.1
Methomyl	16752-77-5	20
Methoxychlor	72-43-5	50
Methyl Chlorocarbonate	79-22-1	1000
Methyl Ethyl Ketone	78-93-3	80
Methyl Parathion	298-00-0	0.3
Nickel Cyanide	557-19-7	20
Nitric Oxide	10102-43-9	100
Nitrobenzene	98-95-3	0.8
Pentachlorobenzene	608-93-5	0.8
Pentachlorophenol	87-86-5	30
Phenol	108-95-2	30
M-Phenylenediamine	108-45-2	5
Phenylmercuric Acetate	62-38-4	0.075
Phosphine	7803-51-2	0.3
Phthalic Anhydride	85-44-9	2000
Potassium Cyanide	151-50-8	50
Potassium Silver Cyanide	506-61-6	200
Pyridine	110-86-1	1
Selenious Acid	7783-60-8	3
Selenourea	630-10-4	5
Silver	7440-22-4	3
Silver Cyanide	506-64-9	100
Sodium Cyanide	143-33-9	30

Strychnine	57-24-9	0.3
1,2,4,5-Tetrachlorobenzene	95-94-3	0.3
2,3,4,6-Tetrachlorophenol	58-90-2	30
Tetraethyl Lead	78-00-2	0.0001
Tetrahydrofuran	109-99-9	10
Thallic Oxide	1314-32-5	0.3
Thallium	7440-28-0	0.5
Thallium (I) Acetate	563-68-8	0.5
Thallium (I) Carbonate	6533-73-9	0.3
Thallium (I) Chloride	7791-12-0	0.3
Thallium (I) Nitrate	10102-45-1	0.5
Thallium Selenite	12039-52-0	0.5
Thallium (I) Sulfate	7446-18-6	0.075
Thiram	137-26-8	5
Toluene	108-88-3	300
1,2,4-Trichlorobenzene	120-82-1	20
Trichloromonofluoromethane	75-69-4	300
2,4,5-Trichlorophenol~~2.4.5-Trichlorophenol~~	95-95-4	100
Vanadium Pentoxide	1314-62-1	20
Warfarin	81-81-2	0.3
Xylenes	1330-20-7	80
Zinc Cyanide	557-21-1	50
Zinc Phosphide	1314-84-7	0.3

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

Section 726.APPENDIX E Risk-Specific Doses

BOARD NOTE: These are risk specific doses (RSDs) based on a risk of 1 in 10,000 (1×10^{-5})(~~1'10^{-5}~~).

Constituent	CAS No.	Unit risk (~~cu~~ $m^3\mu g$)	RSD ($\mu g/m^3$)
Acrylamide	79-06-1	0.0013	0.0077
Acrylonitrile	107-13-1	0.000068	0.15
Aldrin	309-00-2	0.0049	0.0020
Aniline	62-53-3	0.0000074	1.4
Arsenic	7440-38-2	0.0043	0.0023
Benz(a)anthracene	56-55-3	0.00089	0.011
Benzene	71-43-2	0.0000083	1.2
Benzidine	92-87-5	0.067	0.00015
Benzo(a)pyrene	50-32-8	0.0033	0.0030
Beryllium	7440-41-7	0.0024	0.0042
Bis(2-chloroethyl)ether	111-44-4	0.00033	0.030
Bis(chloromethyl)ether	542-88-1	0.062	0.00016
Bis(2-ethylhexyl)-phthalate	117-81-7	0.00000024	42.
1.3-Butadiene	106-99-0	0.00028	0.036
Cadmium	7440-43-9	0.0018	0.0056
Carbon Tetrachloride	56-23-5	0.000015	0.67
Chlordane	57-74-9	0.00037	0.027
Chloroform	67-66-3	0.000023	0.43
Chloromethane	74-87-3	0.0000036	2.8
Chromium VI	7440-47-3	0.012	0.00083
DDT	50-29-3	0.000097	0.10
Dibenz(a,h)anthracene	53-70-3	0.014	0.00071
1,2-Dibromo-3-chloro- propane	96-12-8	0.0063	0.0016
1,2-Dibromoethane	106-93-4	0.00022	0.045
1,1-Dichloroethane	75-34-3	0.000026	0.38
1,2-Dichloroethane	107-06-2	0.000026	0.38
1,1-Dichloroethylene	75-35-4	0.00005	0.20
1,3-Dichloropropene	542-75-6	0.35	0.000029
Dieldrin	60-57-1	0.0046	0.0022
Diethylstilbestrol	56-53-1	0.14	0.000071
Dimethylnitrosamine	62-75-9	0.014	0.00071
2,4-Dinitrotoluene	121-14-2	0.000088	0.11

1,2-Diphenylhydrazine	122-66-7	0.00022	0.045
1,4-Dioxane	123-91-1	0.0000014	7.1
Epichlorohydrin	106-89-8	0.0000012	8.3
Ethylene Oxide	75-21-8	0.00010	0.10
Ethylene Dibromide	106-93-4	0.00022	0.045
Formaldehyde	50-00-0	0.000013	0.77
Heptachlor	76-44-8	0.0013	0.0077
Heptachlor Epoxide	1024-57-3	0.0026	0.0038
Hexachlorobenzene	118-74-1	0.00049	0.020
Hexaclorobutadiene	87-68-3	0.000020	0.50
Alpha-hexachlorocyclohexane	319-84-6	0.0018	0.0056
Beta-hexachlorocyclohexane	319-85-7	0.00053	0.019
Gamma-hexachlorocyclohexane	58-89-9	0.00038	0.026
Hexachlorocyclohexane, Technical		0.00051	0.020
Hexachlorodibenzo-p-dioxin (1,2 Mixture)		1.3	0.0000077
Hexachloroethane	67-72-1	0.0000040	2.5
Hydrazine	302-01-2	0.0029	0.0034
Hydrazine Sulfate	302-01-2	0.0029	0.0034
3-Methylcholanthrene	56-49-5	0.0027	0.0037
Methyl Hydrazine	60-34-4	0.00031	0.032
Methylene Chloride	75-09-2	0.0000041	2.4
4,4'-Methylene-bis-2-chloroaniline	101-14-4	0.000047	0.21
Nickel	7440-02-0	0.00024	0.042
Nickel Refinery Dust	7440-02-0	0.00024	0.042
Nickel Subsulfide	12035-72-2	0.00048	0.021
2-Nitropropane	79-46-9	0.027	0.00037
N-Nitroso-n-butylamine	924-16-3	0.0016	0.0063
N-Nitroso-n-methylurea	684-93-5	0.086	0.00012
N-Nitrosodiethylamine	55-18-5	0.043	0.00023
N-Nitrosopyrrolidine	930-55-2	0.00061	0.016
Pentachloronitrobenzene	82-68-8	0.000073	0.14
PCBs	1336-36-3	0.0012	0.0083
Pronamide	23950-58-5	0.0000046	2.2
Reserpine	50-55-5	0.0030	0.0033
2,3,7,8-Tetrachloro-dibenzo-p-dioxin	1746-01-6	45.	0.00000022

1,1,2,2-Tetrachloroethane	79-34-5	0.000058	0.17
Tetrachloroethylene	127-18-4	0.00000048.	21.
Thiourea	62-56-6	0.00055	0.018
1,1,2-Trichloroethane	79-00-5	0.000016	0.63
Trichloroethylene	79-01-6	0.0000013	7.7
2,4,6-Trichlorophenol	88-06-2	0.0000057	1.8
Toxaphene	8001-35-2	0.00032	0.031
Vinyl Chloride	75-01-4	0.0000071	1.4

(Source: Amended at 32 Ill. Reg. 12741, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a RCRA Standardized Permit

2) Code Citation: 35 Ill. Adm. Code 727

3) Section Number: 727.170 — Adopted Action: Amended

4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27

5) Effective Date of Amendments: July 14, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendments, a copy of the Board's opinion and order adopted June 5, 2008 in docket R07-5/R07-14 (consolidated), 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: 32 Ill. Reg. 5685; April 11, 2008

10) Has JCAR issued a statement of objection to this rulemaking? No

11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated March 20, 2008, in docket R07-5/R07-14 (consolidated). Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace any emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: The amendments to Part 727 are a single segment of the consolidated docket R07-5/R07-14 rulemaking that also affects 35 Ill. Adm. Code 703, 720, 721, 722, 723, 724, 725, 726, 728, and 739, each of which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R07-5/R07-14 rulemaking in this *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 June 5, 2008, proposing amendments in consolidated docket R07-5/R07-14, which opinion and order is available from the address below.

Specifically, the amendments to Part 727 implement segments of the federal amendments of July 14, 2006. The amendments include various USEPA corrections.

Tables appear in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 5, 2008 opinion and order in docket R07-5/R07-14 (consolidated).

16) Information and questions regarding these adopted amendments shall be directed to:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601
312/814-6924

Please reference consolidated docket R07-5/R07-14.

Request copies of the Board's opinion and order of June 5, 2008 at 312/814-3620. Alternatively, you may 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:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 727
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A RCRA STANDARDIZED PERMIT

Section
727.100 General
727.110 General Facility Standards
727.130 Preparedness and Prevention
727.150 Contingency Plan and Emergency Procedures
727.170 Recordkeeping, Reporting, and Notifying
727.190 Releases from Solid Waste Management Units
727.210 Closure
727.240 Financial Requirements
727.270 Use and Management of Containers
727.290 Tank Systems
727.900 Containment Buildings

727.APPENDIX A Financial Assurance Forms
727.ILLUSTRATION A Letter of Chief Financial Officer: Financial Assurance for Facility Closure
727.ILLUSTRATION B Letter of Chief Financial Officer: Financial Assurance for Liability Coverage
727.APPENDIX B Correlation of State and Federal Provisions
727.TABLE A Correlation of Federal RCRA Standardized Permit Provisions to State Provisions
727.TABLE B Correlation of State RCRA Standardized Permit Provisions to Federal Provisions

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 R06-16/R06-17/R06-18 at 31 Ill. Reg. 1146, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12829, effective July 14, 2008.

Section 727.170 Recordkeeping, Reporting, and Notifying

a) Applicability of this Section. This Section applies to the owner and operator of a facility that stores or non-thermally treats a hazardous waste under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2). In addition, the owner or operator must comply with the manifest requirements of 35 Ill. Adm. Code 722 whenever a shipment of hazardous waste is initiated from the facility.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.70 (2007)~~, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

b) Use of the manifest system.

1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or its agent, must do each of the following:

A) It must sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

B) It must note any significant discrepancies in the manifest (as defined in Section 727.170(c)(1)) on each copy of the manifest;

C) It must immediately give the transporter at least one copy of the signed manifest;

D) Within 30 days after the delivery, it must send a copy of the manifest to the generator; and

E) It must retain at the facility a copy of each manifest for at least three years from the date of delivery.

2) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or its agent, must do each of the following:

A) It must sign and date each copy of the manifest or shipping paper

(if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

B) It must note any significant discrepancies (as defined in Section 727.170(c)(1)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: USEPA does not intend that the owner or operator of a facility whose procedures pursuant to Section 727.110(d)(3) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 727.170(c)(2), however, requires reporting an unreconciled discrepancy discovered during later analysis.

C) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

D) Within 30 days after the delivery, it must send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or its agent, must send a copy of the shipping paper signed and dated to the generator; and

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

E) It must retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

3) Whenever a shipment of hazardous waste is initiated from a facility, the facility owner or operator must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 724.134 are applicable to the on-site accumulation of hazardous wastes by generators.

Therefore, the provisions of 35 Ill. Adm. Code 724.134 apply only to an owner or operator that is shipping hazardous waste that it generated at that facility.

4) Within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722 the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Agency, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.71 (2007)~~, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

c) Manifest discrepancies.

1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are either of the following:

A) For bulk waste, variations greater than 10 percent in weight; or

B) For batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

2) Upon discovering a significant discrepancy, the facility owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy

and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.72 (2007)~~, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

d) Retention of information.

1) The facility owner or operator must keep a written operating record at its facility.

2) The facility owner or operator must record the following information, as it becomes available, and maintain the operating record until it closes the facility:

A) A description and the quantity of each type of hazardous waste generated, and the methods and dates of its storage or treatment at the facility as required by Appendix A of 35 Ill. Adm. Code 724;

B) The location of each hazardous waste within the facility and the quantity at each location;

C) Records and results of waste analyses and waste determinations performed as specified in Section 727.110(d) and (h) and 35 Ill. Adm. Code 724.934, 724.963, 724.983, and 728.107;

D) Summary reports and details of all incidents that require the owner or operator to implement the contingency plan as specified in Section 727.150(i)(2));

E) Records and results of inspections as required by Section 727.110(f)(4) (except that the facility owner or operator needs to keep these data for only three years);

F) Monitoring, testing or analytical data, and corrective action when required by Section 727.190, Section 727. 290(b), (d), and (f) and 35 Ill. Adm. Code 724.934(c) through (f), 724.935, 724.963(d) through (i), 724.964, 724.988, 724.989, and 724.990;

G) All closure cost estimates pursuant to Section 727.240(c);

H) The facility owner or operator certification, executed at least annually, that the owner or operator has a program in place to reduce the volume and toxicity of hazardous waste that it generates to the degree that the owner or operator determines to be economically practicable; and that the proposed method of treatment or storage is that practicable method currently available to the owner or operator that minimizes the present and future threat to human health and the environment;

I) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required by the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107;

J) For an on-site storage facility, the information in the notice (except the manifest number), and the certification and demonstration, if applicable, required by the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107;

K) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107 or 728.108; and

L) For an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator pursuant to 35 Ill. Adm. Code 728.107 or 728.108.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.73 (2007)~~, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

e) Availability of records.

1) The facility owner or operator must furnish all records, including plans, required pursuant to this Part upon the request of any officer, employee, or representative of the Agency or USEPA and make them available at all

reasonable times for inspection.

2) The retention period for all records required pursuant to this Part is extended automatically during the course of any unresolved enforcement action involving the facility or as requested by the Agency.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.74 (2007)~~, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

f) Submission of reports. The facility owner or operator must prepare an annual facility activities ~~a biennial~~ report and other reports listed in subsection (f)(2) of this Section.

1) Annual facility activities ~~Biennial~~ report. The facility owner or operator must prepare and submit a single copy of an annual facility activities ~~a biennial~~ report to the Agency by March 1 of each ~~even numbered~~ year. The annual facility activities ~~biennial~~ report must be submitted on USEPA Form 8700-13B. The report must cover facility activities during the previous ~~two~~ calendar year~~years~~ and must include the following information:

BOARD NOTE: Corresponding 40 CFR 267.75(a) (2006) requires biennial reporting. The Board has required annual reporting, since Section 20.1 of the Act [415 ILCS 5/20.1 (2006)] requires the Agency to assemble annual reports, and only annual facility activity reports will enable the Agency to fulfill this mandate.

A) The USEPA identification number, name, and address of the facility;

B) The calendar year covered by the report;

C) The method of treatment or storage for each hazardous waste;

D) The most recent closure cost estimate pursuant to Section 727.240(c);

E) A description of the efforts undertaken during the year to reduce the volume and toxicity of generated waste;

F) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

G) The certification signed by the owner or operator.

2) Additional reports. In addition to submitting the biennial reports, the owner or operator must also report the following information to the Agency:

A) Releases, fires, and explosions as specified in Section 727.150(i)(2);

B) Facility closures specified in Section 727.210(h); and

C) Other information as otherwise required by Sections 727.270, 727.290, and 727.900 and Subparts AA, BB, and CC of 35 Ill. Adm. Code 724~~264~~.

3) For off-site facilities, the USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator.

4) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by USEPA identification number of each generator.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.75 (2007)~~, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

g) Required notifications. Before transferring ownership or operation of a facility during its operating life, the facility owner or operator must notify the new owner or operator in writing of the requirements of this Part and Subpart J of 35 Ill. Adm. Code 703.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.76

(2007)~~, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

(Source: Amended at 32 Ill. Reg. 12829, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Land Disposal Restrictions

2) Code Citation: 35 Ill. Adm. Code 728

3)

Section Numbers:	Adopted Action:
728.102	Amended
728.104	Amended
728.107	Amended
728.109	Amended
728.TABLE C	Amended
728.TABLE F	Amended
728.TABLE T	Amended
728.TABLE U	Amended

4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27

5) Effective Date of Amendments: July 14, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendments, a copy of the Board's opinion and order adopted June 5, 2008 in docket R07-5/R07-14 (consolidated), 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: April 11, 2008; 32 Ill. Reg. 5697

10) Has JCAR issued a statement of objection to these amendments? No

11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated March 20, 2008, in docket R07-5/R07-14 (consolidated). Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

13) Will these amendments replace any emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of amendments: The amendments to Part 728 are a single segment of the consolidated docket R07-5/R07-14 rulemaking that also affects 35 Ill. Adm. Code 703, 720, 721, 722, 723, 724, 725, 726, 727, and 739, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R07-5/R07-14 rulemaking in this *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 June 5, 2008, proposing amendments in consolidated docket R07-5/R07-14, which opinion and order is available from the address below.

Specifically, the amendments to Part 728 implement segments of the federal amendments of April 4, 2006 and July 14, 2006. The amendments implement the regulatory burden reduction amendments, and include various USEPA corrections.

Tables appear in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 5, 2008 opinion and order in docket R07-5/R07-14 (consolidated).

16) Information and questions regarding this adopted rulemaking shall be adopted to:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6924

Please reference consolidated docket R07-5/R07-14.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Request copies of the Board's opinion and order of June 5, 2008 at 312-814-3620. Alternatively, you may 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:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 728
LAND DISPOSAL RESTRICTIONS

SUBPART A: GENERAL

Section
728.101 Purpose, Scope, and Applicability
728.102 Definitions
728.103 Dilution Prohibited as a Substitute for Treatment
728.104 Treatment Surface Impoundment Exemption
728.105 Procedures for Case-by-Case Extensions to an Effective Date
728.106 Petitions to Allow Land Disposal of a Waste Prohibited Pursuant to Subpart C
728.107 Testing, Tracking, and Recordkeeping Requirements for Generators, Treaters, and Disposal Facilities
728.108 Landfill and Surface Impoundment Disposal Restrictions (Repealed)
728.109 Special Rules for Characteristic Wastes

SUBPART B: SCHEDULE FOR LAND DISPOSAL PROHIBITION AND ESTABLISHMENT OF TREATMENT STANDARDS

Section
728.110 First Third (Repealed)
728.111 Second Third (Repealed)
728.112 Third Third (Repealed)
728.113 Newly Listed Wastes
728.114 Surface Impoundment Exemptions

SUBPART C: PROHIBITION ON LAND DISPOSAL

Section
728.120 Waste-Specific Prohibitions: Dyes and Pigments Production Wastes
728.130 Waste-Specific Prohibitions: Wood Preserving Wastes
728.131 Waste-Specific Prohibitions: Dioxin-Containing Wastes
728.132 Waste-Specific Prohibitions: Soils Exhibiting the Toxicity Characteristic for

Metals and Containing PCBs
728.133 Waste-Specific Prohibitions: Chlorinated Aliphatic Wastes
728.134 Waste-Specific Prohibitions: Toxicity Characteristic Metal Wastes
728.135 Waste-Specific Prohibitions: Petroleum Refining Wastes
728.136 Waste-Specific Prohibitions: Inorganic Chemical Wastes
728.137 Waste-Specific Prohibitions: Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated
728.138 Waste-Specific Prohibitions: Newly-Identified Organic Toxicity Characteristic Wastes and Newly-Listed Coke By-Product and Chlorotoluene Production Wastes
728.139 Waste-Specific Prohibitions: Spent Aluminum Potliners and Carbamate Wastes

SUBPART D: TREATMENT STANDARDS

Section
728.140 Applicability of Treatment Standards
728.141 Treatment Standards Expressed as Concentrations in Waste Extract
728.142 Treatment Standards Expressed as Specified Technologies
728.143 Treatment Standards Expressed as Waste Concentrations
728.144 Adjustment of Treatment Standard
728.145 Treatment Standards for Hazardous Debris
728.146 Alternative Treatment Standards Based on HTMR
728.148 Universal Treatment Standards
728.149 Alternative LDR Treatment Standards for Contaminated Soil

SUBPART E: PROHIBITIONS ON STORAGE

Section
728.150 Prohibitions on Storage of Restricted Wastes

728.APPENDIX A Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)
728.APPENDIX B Treatment Standards (As concentrations in the Treatment Residual Extract) (Repealed)
728.APPENDIX C List of Halogenated Organic Compounds Regulated under Section 728.132
728.APPENDIX D Wastes Excluded from Lab Packs
728.APPENDIX E Organic Lab Packs (Repealed)
728.APPENDIX F Technologies to Achieve Deactivation of Characteristics
728.APPENDIX G Federal Effective Dates
728.APPENDIX H National Capacity LDR Variances for UIC Wastes

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

728.APPENDIX I	EP Toxicity Test Method and Structural Integrity Test
728.APPENDIX J	Recordkeeping, Notification, and Certification Requirements (Repealed)
728.APPENDIX K	Metal-Bearing Wastes Prohibited from Dilution in a Combustion Unit According to Section 728.103(c)
728.TABLE A	Constituent Concentrations in Waste Extract (CCWE)
728.TABLE B	Constituent Concentrations in Wastes (CCW)
728.TABLE C	Technology Codes and Description of Technology-Based Standards
728.TABLE D	Technology-Based Standards by RCRA Waste Code
728.TABLE E	Standards for Radioactive Mixed Waste
728.TABLE F	Alternative Treatment Standards for Hazardous Debris
728.TABLE G	Alternative Treatment Standards Based on HTMR
728.TABLE H	Wastes Excluded from CCW Treatment Standards
728.TABLE I	Generator Paperwork Requirements
728.TABLE T	Treatment Standards for Hazardous Wastes
728.TABLE U	Universal Treatment Standards (UTS)

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 R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7685, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17706, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1964, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9204, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9623, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1296, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9181, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6687, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 13045, effective July

17, 2003; amended in R05-8 at 29 Ill. Reg. 6049, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3800, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1254, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12840, effective July 14, 2008.

SUBPART A: GENERAL

Section 728.102 Definitions

When used in this Part, the following terms have the meanings given below. All other terms have the meanings given under 35 Ill. Adm. Code 702.110, 720.110, or 721.102 through 721.104.

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC 9601 et seq.)

"Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is~~:~~ a manufactured object; plant or animal matter; or natural geologic material. However, the following materials are not debris: any material for which a specific treatment standard is provided in Subpart D of this Part, namely lead acid batteries, cadmium batteries, and radioactive lead solids; process residuals, such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least 75 percent of their original volume. A mixture of debris that has not been treated to the standards provided by Section 728.145 of this Part and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

~~"End-of-pipe" refers to the point where effluent is discharged to the environment.~~

"Halogenated organic compounds" or "HOCs" means those compounds having a carbon-halogen bond that are listed under Appendix C of this Part.

"Hazardous constituent or constituents" means those constituents listed in

Appendix H to 35 Ill. Adm. Code 721.

"Hazardous debris" means debris that contains a hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 or that exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. Any deliberate mixing of prohibited waste with debris that changes its treatment classification (i.e., from waste to hazardous debris) is not allowed under the dilution prohibition in Section 728.103.

"Inorganic metal-bearing waste" is one for which USEPA has established treatment standards for metal hazardous constituents that does not otherwise contain significant organic or cyanide content, as described in Section 728.103(b)(1), and which is specifically listed in Appendix K of this Part.

"Land disposal" means placement in or on the land, except in a corrective action management unit or staging pile, and "land disposal" includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

"Land disposal restriction" or "LDR" is a restriction imposed on the land disposal of a hazardous waste pursuant to this Part or 40 CFR 738. The land disposal of hazardous waste is generally prohibited, except where the activity constituting land disposal is specfically allowed, pursuant to this Part or 40 CFR 738. BOARD NOTE: The Board added this definition based on the preamble discussions at 51 Fed. Reg. 40572, 40573-74 (November 7, 1986) and 53 Fed. Reg. 28118, 28119-20 (July 26, 1988). The USEPA publication "Terms of Environment Glossary, Abbreviations, and Acronyms" (December 1997), USEPA, Communications, Education, and Public Affairs, EPA 175/B-97-001, defines "land disposal restrictions" as follows: "Rules that require hazardous wastes to be treated before disposal on land to destroy or immobilize hazardous constituents that might migrate into soil and ground water."

"Nonwastewaters" are wastes that do not meet the criteria for "wastewaters" in this Section.

"Polychlorinated biphenyls" or "PCBs" are halogenated organic compounds defined in accordance with federal 40 CFR 761.3 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

"ppm" means parts per million.

"RCRA corrective action" means corrective action taken under 35 Ill. Adm. Code 724.200 or 725.193, federal 40 CFR 264.100 or 265.93, or similar regulations in other states with RCRA programs authorized by USEPA pursuant to 40 CFR 271.

"Soil" means unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand, or gravel size particles, as classified by the United States Natural Resources Conservation Service, or a mixture of such materials with liquids, sludges, or solids that is inseparable by simple mechanical removal processes and which is made up primarily of soil by volume based on visual inspection. Any deliberate mixing of prohibited waste with debris that changes its treatment classification (i.e., from waste to hazardous debris) is not allowed under the dilution prohibition in Section 728.103.

~~"Stormwater impoundments" are surface impoundments that receive wet weather flow and which receive process waste only during wet weather events.~~

"Underlying hazardous constituent" means any constituent listed in Table U of this Part, "Universal Treatment Standards (UTS)," except fluoride, selenium, sulfides, vanadium, and zinc, that can reasonably be expected to be present at the point of generation of the hazardous waste at a concentration above the constituent-specific UTS treatment standard.

"USEPA" or "U.S. EPA" means the United States Environmental Protection Agency.

"Wastewaters" are wastes that contain less than one percent by weight total organic carbon (TOC) and less than one percent by weight total suspended solids (TSS).

(Source: Amended at 32 Ill. Reg. 12840, effective July 14, 2008)

Section 728.104 Treatment Surface Impoundment Exemption

a) Wastes that are otherwise prohibited from land disposal under this Part may be treated in a surface impoundment or series of impoundments provided that all of

the following conditions are fulfilled:

1) Treatment of such wastes occurs in the impoundments;

2) The following conditions are met:

A) Sampling and testing. For wastes with treatment standards in Subpart D or prohibition levels in Subpart C, the residues from treatment are analyzed, as specified in Section 728.107 or 728.132, to determine if they meet the applicable treatment standards or, where no treatment standards have been established for the waste, the applicable prohibition levels. The sampling method, specified in the waste analysis plan under 35 Ill. Adm. Code 724.113 or 725.113, must be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

B) Removal. The following treatment residues (including any liquid waste) must be removed at least annually: residues that do not meet the treatment standards promulgated under Subpart D of this Part; residues that do not meet the prohibition levels established under Subpart C of this Part or imposed by federal statute (where no treatment standards have been established); residues that are from the treatment of wastes prohibited from land disposal under Subpart C of this Part (where no treatment standards have been established and no prohibition levels apply); or residues from managing listed wastes that are not delisted under 35 Ill. Adm. Code 720.122. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement.

C) Subsequent management. Treatment residues must not be placed in any other surface impoundment for subsequent management.

D) Recordkeeping. Sampling, testing, and recordkeeping provisions of 35 Ill. Adm. Code 724.113 or 725.113 apply;

3) The impoundment meets the design requirements of 35 Ill. Adm. Code 724.321(c) or 725.321(a) even though the unit may not be new, expanded or a replacement, and must be in compliance with applicable groundwater monitoring requirements of Subpart F of 35 Ill. Adm. Code 724 or Subpart F of 35 Ill. Adm. Code 725~~this Part~~, unless any of the following conditions is fulfilled:

A) The impoundment is exempted pursuant to 35 Ill. Adm. Code 724.321(d) or (e), or to 35 Ill. Adm. Code 725.321(c) or (d);

B) Upon application by the owner or operator, the Agency has by permit provided that the requirements of this Part do not apply on the basis that the surface impoundment fulfills all of the following conditions:

i) The impoundment has at least one liner, for which there is no evidence that such liner is leaking;

ii) The impoundment is located more than one-quarter mile from an underground source of drinking water; and

iii) The impoundment is in compliance with generally applicable groundwater monitoring requirements for facilities with permits; or

C) Upon application by the owner or operator, the Board has, pursuant to Subpart D of 35 Ill. Adm. Code 104, granted an adjusted standard from the requirements of this Part. The justification for such an adjusted standard must be a demonstration that the surface impoundment is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time; and

4) The owner or operator submits to the Agency a written certification that the requirements of subsection (a)(3) of this Section have been met. The following certification is required:

I certify under penalty of law that the requirements of 35 Ill. Adm. Code 728.104(a)(3) have been met for all surface impoundments

being used to treat restricted wastes. 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.

b) Evaporation of hazardous constituents as the principal means of treatment is not considered to be a treatment for purposes of an exemption under this Section.

(Source: Amended at 32 Ill. Reg. 12840, effective July 14, 2008)

Section 728.107 Testing, Tracking, and Recordkeeping Requirements for Generators, Treaters, and Disposal Facilities

a) Requirements for generators.

1) A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in Section 728.140, 728.145, or 728.149. This determination can be made concurrently with the hazardous waste determination required in 35 Ill. Adm. Code 722.111, in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing determines the total concentration of hazardous constituents or the concentration of hazardous constituents in an extract of the waste obtained using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste extract. (Alternatively, the generator must send the waste to a RCRA-permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of 35 Ill. Adm. Code 724.113 and subsection (b) of this Section.) In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in Section 728.140 and Table T of this Part, and are described in detail in Table C of this Part. These wastes and soils contaminated with such wastes do not need to be tested (however, if they are in a waste mixture, other wastes with concentration

level treatment standards must be tested). If a generator determines that it is managing a waste or soil contaminated with a waste that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, the generator must comply with the special requirements of Section 728.109 in addition to any applicable requirements in this Section.

2) If the waste or contaminated soil does not meet the treatment standard or if the generator chooses not to make the determination of whether its waste must be treated, the generator must send a one-time written notice to each treatment or storage facility receiving the waste with the initial shipment of waste to each treatment or storage facility, and the generator must place a copy of the one-time notice in the file. The notice must include the information in column "728.107(a)(2)" of the Generator Paperwork Requirements Table in Table I of this Part. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the USEPA hazardous waste numbers and manifest number of the first shipment, and it must include the following statement: "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.

~~A) For contaminated soil, the following certification statement should be included, signed by an authorized representative:~~

~~I certify under penalty of law that I personally have examined this contaminated soil and it (does/does not) contain listed hazardous waste and (does/does not) exhibit a characteristic of hazardous waste and requires treatment to meet the soil treatment standards as provided by 35 Ill. Adm. Code 728.149(c).~~

~~B) This subsection (a)(2)(B) corresponds with 40 CFR 268.7(a)(2)(ii), which is marked "reserved" by USEPA. This statement maintains structural consistency with USEPA rules.~~

3) If the waste or contaminated soil meets the treatment standard at the original point of generation, the waste generator must do the following:

A) With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste, and place a copy in its own file. The notice must include the information indicated in column "728.107(a)(3)" of the Generator Paperwork Requirements Table in Table I of this Part and the following certification statement, signed by an authorized representative:

> I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in Subpart D of 35 Ill. Adm. Code 728. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

B) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice must include the information in the column headed "(a)(3)" in Table I of this Part.

C) If the waste changes, the generator must send a new notice and certification to the receiving facility and place a copy in its files. A generator of hazardous debris excluded from the definition of hazardous waste under 35 Ill. Adm. Code 721.103(f) is not subject to these requirements.

4) For reporting, tracking and recordkeeping when exceptions allow certain wastes or contaminated soil that do not meet the treatment standards to be land disposed, there are certain exemptions from the requirement that hazardous wastes or contaminated soil meet treatment standards before they can be land disposed. These include, but are not limited to, case-by-case extensions under Section 728.105, disposal in a no-migration unit under Section 728.106, or a national capacity variance or case-by-case

capacity variance under Subpart C of this Part. If a generator's waste is so exempt, then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information indicated in column "728.107(a)(4)" of the Generator Paperwork Requirements Table in Table I of this Part. If the waste changes, the generator must send a new notice to the receiving facility, and place a copy in its file.

5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 35 Ill. Adm. Code 722.134 to meet applicable LDR treatment standards found at Section 728.140, the generator must develop and follow a written waste analysis plan that describes the procedures it will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table F of this Part, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met:

A) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited wastes being treated, and contain all information necessary to treat the wastes in accordance with the requirements of this Part, including the selected testing frequency;

B) Such plan must be kept in the facility's on-site files and made available to inspectors; and

C) Wastes shipped off-site pursuant to this subsection (a)(5) of this Section must comply with the notification requirements of subsection (a)(3) of this Section.

6) If a generator determines that the waste or contaminated soil is restricted based solely on its knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines that the waste is restricted based on testing this waste or an extract developed using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-

846, all waste analysis data must be retained on-site in the generator's files.

7) If a generator determines that it is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or which is exempt from Subtitle C regulation under 35 Ill. Adm. Code 721.102 through 721.106 subsequent to the point of generation (including deactivated characteristic hazardous wastes that are managed in wastewater treatment systems subject to the CWA, as specified at 35 Ill. Adm. Code 721.104(a)(2); that are CWA-equivalent; or that are managed in an underground injection well regulated under 35 Ill. Adm. Code 730), the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from RCRA Subtitle C regulation, and the disposition of the waste in the generating facility's on-site file.

8) A generator must retain a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this Section on-site for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Agency. The requirements of this subsection (a)(8) apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under 35 Ill. Adm. Code 721.102 through 721.106, or exempted from RCRA Subtitle C regulation, subsequent to the point of generation.

9) If a generator is managing a lab pack containing hazardous wastes and wishes to use the alternative treatment standard for lab packs found at Section 728.142(c), the generator must fulfill the following conditions:

A) With the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column "Section 728.107(a)(9)" in the Generator Paperwork Requirements Table of Table I of this Part and the following certification. The certification, which must be signed by an authorized representative and must be placed in the generator's

files, must say the following:

> I certify under penalty of law that I personally have examined and am familiar with the waste and that the lab pack contains only wastes that have not been excluded under Appendix D to 35 Ill. Adm. Code 728 and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at 35 Ill. Adm. Code 728.142(c). I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment.

B) No further notification is necessary until such time as the wastes in the lab pack change, or the receiving facility changes, in which case a new notice and certification must be sent and a copy placed in the generator's file.

C) If the lab pack contains characteristic hazardous wastes (D001-D043), underlying hazardous constituents (as defined in Section 728.102(i)) need not be determined.

D) The generator must also comply with the requirements in subsections (a)(6) and (a)(7) of this Section.

10) Small quantity generators with tolling agreements pursuant to 35 Ill. Adm. Code 722.120(e) must comply with the applicable notification and certification requirements of subsection (a) of this Section for the initial shipment of the waste subject to the agreement. Such generators must retain on-site a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Agency.

b) The owner or operator of a treatment facility must test its wastes according to the frequency specified in its waste analysis plan, as required by 35 Ill. Adm. Code 724.113 (for permitted TSDs) or 725.113 (for interim status facilities). Such testing must be performed as provided in subsections (b)(1), (b)(2), and (b)(3) of this Section.

1) For wastes or contaminated soil with treatment standards expressed in the waste extract (TCLP), the owner or operator of the treatment facility must test an extract of the treatment residues using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, to assure that the treatment residues extract meets the applicable treatment standards.

2) For wastes or contaminated soil with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to assure that the treatment residues meet the applicable treatment standards.

3) A one-time notice must be sent with the initial shipment of waste or contaminated soil to the land disposal facility. A copy of the notice must be placed in the treatment facility's file.

A) No further notification is necessary until such time that the waste or receiving facility changes, in which case a new notice must be sent and a copy placed in the treatment facility's file.

B) The one-time notice must include the following requirements :

i) USEPA hazardous waste number and manifest number of first shipment;

ii) The waste is subject to the LDRs. The constituents of concern for F001 through F005 and F039 waste and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice;

iii) The notice must include the applicable wastewater/nonwastewater category (see Section 728.102(d) and (f)) and subdivisions made within a waste code based on waste-specific criteria (such as D003

reactive cyanide);

iv) Waste analysis data (when available);

v) For contaminated soil subject to LDRs as provided in Section 728.149(a), the constituents subject to treatment as described in Section 728.149(d) and the following statement, "this contaminated soil (does/does not) contain listed hazardous waste and (does/does not) exhibit a characteristic of hazardous waste and (is subject to/complies with) the soil treatment standards as provided by Section 728.149(c)"; and

vi) A certification is needed (see applicable Section for exact wording).

4) The owner or operator of a treatment facility must submit a certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state as follows:

> I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in 35 Ill. Adm. Code 728.140 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

A certification is also necessary for contaminated soil and it must state as follows:

> I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with

treatment standards specified in 35 Ill. Adm. Code 728.149 without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

A) A copy of the certification must be placed in the treatment facility's on-site files. If the waste or treatment residue changes, or the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the treatment facility's file.

B) Debris excluded from the definition of hazardous waste under 35 Ill. Adm. Code 721.103(f)~~721.103(e)~~ (i.e., debris treated by an extraction or destruction technology listed in Table F of this Part and debris that the Agency has determined does not contain hazardous waste) is subject to the notification and certification requirements of subsection (d) of this Section rather than the certification requirements of this subsection (b)(4).

C) For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in part or in whole on the analytical detection limit alternative specified in Section 728.140(d), the certification must be signed by an authorized representative and must state as follows:

> I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by combustion units as specified in Table C to 35 Ill. Adm. Code 728. I have been unable to detect the nonwastewater organic constituents, despite having used best good faith efforts to analyze for such constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

D) For characteristic wastes that are subject to the treatment standards in Section 728.140 and Table T of this Part (other than those expressed as a required method of treatment) or Section 728.149 and which contain underlying hazardous constituents, as defined in Section 728.102(i); if these wastes are treated on-site to remove the hazardous characteristic; and that are then sent off-site for treatment of underlying hazardous constituents, the certification must state as follows:

> I certify under penalty of law that the waste has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.140 and Table T of Section 728.149 of that Part to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

E) For characteristic wastes that contain underlying hazardous constituents, as defined in Section 728.102(i), that are treated on-site to remove the hazardous characteristic and to treat underlying hazardous constituents to levels in Section 728.148 and Table U of this Part universal treatment standards, the certification must state as follows:

> I certify under penalty of law that the waste has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.140 and Table T of that Part to remove the hazardous characteristic and that underlying hazardous constituents, as defined in 35 Ill. Adm. Code 728.102(i), have been treated on-site to meet the universal treatment standards of 35 Ill. Adm. Code 728.148 and Table U of that Part. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

5) If the waste or treatment residue will be further managed at a different treatment, storage, or disposal facility, the treatment, storage, or disposal

facility that sends the waste or treatment residue off-site must comply with the notice and certification requirements applicable to generators under this Section.

6) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of 35 Ill. Adm. Code 726.120(b), regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) ~~is not required to notify the receiving facility pursuant to subsection (b)(3) of this Section. With each shipment of such wastes the owner or operator of the recycling facility must submit~~ must, for the initial shipment of waste, prepare a one-time certification described in subsection (b)(4) of this Section and a notice that includes the information listed in subsection (b)(3) of this Section (except the manifest number) ~~to the Agency~~. The certification and notification must be placed in the facility's on-site files. If the waste or the receiving facility changes, a new certification and notification must be prepared and placed in the on-site files. ~~The~~ In addition, the owner or operator of the recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

c) Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal pursuant to 35 Ill. Adm. Code 726.120(b), the owner or operator of any land disposal facility disposing any waste subject to restrictions under this Part must do the following:

1) Maintain in its files copies of the notice and certifications specified in subsection (a) or (b) of this Section.

2) Test the waste or an extract of the waste or treatment residue developed using Method 1311 (Toxicity Characteristic Leaching Procedure~~)~~ in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846~~,~~) to assure that the waste or treatment residue is in compliance with the applicable treatment standards set forth in Subpart D of this Part. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by 35 Ill. Adm. Code 724.113 or 35 Ill. Adm. Code 725.113.

3) Where the owner or operator is disposing of any waste that is subject to the prohibitions under Section 728.133(f) but not subject to the

prohibitions set forth in Section 728.132, the owner or operator must ensure that such waste is the subject of a certification according to the requirements of Section 728.108 prior to disposal in a landfill or surface impoundment unit, and that such disposal is in accordance with the requirements of Section 728.105(h)(2). The same requirement applies to any waste that is subject to the prohibitions under Section 728.133(f) and also is subject to the statutory prohibitions in the codified prohibitions in Section 728.139 or Section 728.132.

4) Where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal subject to the provisions of 35 Ill. Adm. Code 726.120(b), the owner or operator is not subject to subsections (c)(1) through (c)(3) of this Section with respect to such waste.

d) A generator or treater that first claims that hazardous debris is excluded from the definition of hazardous waste under 35 Ill. Adm. Code 721.103(f)~~721.103(e)~~ (i.e., debris treated by an extraction or destruction technology provided by Table F of this Part, and debris that has been delisted) is subject to the following notification and certification requirements:

1) A one-time notification must be submitted to the Agency including the following information:

A) The name and address of the RCRA Subtitle D (municipal solid waste landfill) facility receiving the treated debris;

B) A description of the hazardous debris as initially generated, including the applicable USEPA hazardous waste numbers; and

C) For debris excluded under 35 Ill. Adm. Code 721.103(e)(1), the technology from Table F of this Part used to treat the debris.

2) The notification must be updated if the debris is shipped to a different facility and, for debris excluded under 35 Ill. Adm. Code 721.102(f)(1)~~721.102(e)(1)~~, if a different type of debris is treated or if a different technology is used to treat the debris.

3) For debris excluded under 35 Ill. Adm. Code 721.102(f)(1)~~721.103(e)(1)~~,

the owner or operator of the treatment facility must document and certify compliance with the treatment standards of Table F of this Part, as follows:

A) Records must be kept of all inspections, evaluations, and analyses of treated debris that are made to determine compliance with the treatment standards;

B) Records must be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and

C) For each shipment of treated debris, a certification of compliance with the treatment standards must be signed by an authorized representative and placed in the facility's files. The certification must state as follows:

> I certify under penalty of law that the debris has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.145. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment.

e) A generator or treater that first receives a determination from USEPA or the Agency that a given contaminated soil subject to LDRs, as provided in Section 728.149(a), no longer contains a listed hazardous waste and a generator or treater that first determines that a contaminated soil subject to LDRs, as provided in Section 728.149(a), no longer exhibits a characteristic of hazardous waste must do the following:

1) Prepare a one-time only documentation of these determinations including all supporting information; and

2) Maintain that information in the facility files and other records for a minimum of three years.

(Source: Amended at 32 Ill. Reg. 12840, effective July 14, 2008)

Section 728.109 Special Rules for Characteristic Wastes

a) The initial generator of a solid waste must determine each USEPA hazardous waste number (waste code) applicable to the waste in order to determine the applicable treatment standards under Subpart D of this Part. This determination may be made concurrently with the hazardous waste determination required in Section 722.111. For purposes of this Part, the waste must carry the waste code for any applicable listing under Subpart D of 35 Ill. Adm. Code 721. In addition, the waste must carry one or more of the waste codes under Subpart C of 35 Ill. Adm. Code 721 where the waste exhibits a characteristic, except in the case when the treatment standard for the listed waste operates in lieu of the treatment standard for the characteristic waste, as specified in subsection (b) of this Section. If the generator determines that its waste displays a characteristic of hazardous waste (and the waste is not D001 nonwastewaters treated by CMBST, RORGS, or POLYM of Table C to this Part), the generator must determine the underlying hazardous constituents (as defined at Section 728.102(i)) in the characteristic waste.

b) Where a prohibited waste is both listed under Subpart D of 35 Ill. Adm. Code 721 and exhibits a characteristic of hazardous waste under Subpart C of 35 Ill. Adm. Code 721, the treatment standard for the waste code listed in Subpart D of 35 Ill. Adm. Code 721 will operate in lieu of the standard for the waste code under Subpart C of 35 Ill. Adm. Code 721, provided that the treatment standard for the listed waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

c) In addition to any applicable standards determined from the initial point of generation, no prohibited waste that exhibits a characteristic under Subpart C of 35 Ill. Adm. Code 721 must be land disposed, unless the waste complies with the treatment standards under Subpart D of this Part.

d) A waste that exhibits a characteristic of hazardous waste under Subpart C of 35 Ill. Adm. Code 721 is also subject to Section 728.107 requirements, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generator's or treater's on-site files ~~and sent to the Agency, except for those facilities described in subsection (f) of this Section~~. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes or if the RCRA Subtitle D (municipal solid waste landfill) facility receiving the waste

changes. ~~However, the generator or treater need only notify the Agency on an annual basis if such changes occur. Such notification and certification should be sent to the Agency by the end of the year, but no later than December 31.~~

1) The notification must include the following information:

A) The name and address of the RCRA Subtitle D (municipal solid waste landfill) facility receiving the waste shipment; and

B) A description of the waste as initially generated, including the applicable USEPA hazardous waste numbers, the treatability groups, and the underlying hazardous constituents (as defined in Section 728.102(i)), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.

2) The certification must be signed by an authorized representative and must state the language found in Section 728.107(b)(4). If treatment removes the characteristic but does not meet standards applicable to underlying hazardous constituents, then the certification found in Section 728.107(b)(4)(D) applies.

~~3) For a characteristic waste whose ultimate disposal will be into a Class I nonhazardous waste injection well, and for which compliance with the treatment standards set forth in Section 728.148 and Table U to this Part for underlying hazardous constituents is achieved through pollution prevention that meets the criteria set forth at 35 Ill. Adm. Code 738.101(d), the following information must also be included:~~

~~A) A description of the pollution prevention mechanism and when it was implemented, if already complete;~~

~~B) The mass of each underlying hazardous constituent before pollution prevention;~~

~~C) The mass of each underlying hazardous constituent that must be removed, adjusted to reflect variations in mass due to normal~~

~~operating conditions; and~~

~~D) The mass reduction of each underlying hazardous constituent that is achieved.~~

~~e) For a decharacterized waste managed on-site in a wastewater treatment system subject to the federal Clean Water Act (CWA) or zero-dischargers engaged in CWA-equivalent treatment, compliance with the treatment standards set forth in Section 728.148 and Table D to this Part must be monitored quarterly, unless the treatment is aggressive biological treatment, in which case compliance must be monitored annually. Monitoring results must be kept in on-site files for five years.~~

~~f) For a decharacterized waste managed on-site in a wastewater treatment system subject to the federal Clean Water Act (CWA) for which all underlying hazardous constituents (as defined in Section 728.102) are addressed by a CWA permit, this compliance must be documented and this documentation must be kept in on-site files.~~

~~g) For a characteristic waste whose ultimate disposal will be into a Class I nonhazardous waste injection well that qualifies for the de minimis exclusion described in Section 728.101, information supporting that qualification must be kept in on-site files.~~

(Source: Amended at 32 Ill. Reg. 12840, effective July 14, 2008)

Section 728.TABLE C Technology Codes and Description of Technology-Based Standards

Technology Code	Description of Technology-Based Standard
ADGAS	Venting of compressed gases into an absorbing or reacting media (i.e., solid or liquid) − venting can be accomplished through physical release utilizing valves or piping; physical penetration of the container; or penetration through detonation.
AMLGM	Amalgamation of liquid, elemental mercury contaminated with radioactive materials utilizing inorganic reagents such as copper, zinc, nickel, gold, and sulfur that result in a nonliquid, semi-solid amalgam and thereby reducing potential emissions of elemental mercury vapors to the air.
BIODG	Biodegradation of organics or non-metallic inorganics (i.e., degradable inorganics that contain the elements of phosphorus, nitrogen, and sulfur) in units operated under either aerobic or anaerobic conditions such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon (TOC) can often be used as an indicator parameter for the biodegradation of many organic constituents that cannot be directly analyzed in wastewater residues).
CARBN	Carbon adsorption (granulated or powdered) of non-metallic inorganics, organo-metallics, or organic constituents, operated so that a surrogate compound or indicator parameter has not undergone breakthrough (e.g., total organic carbon (TOC) can often be used as an indicator parameter for the adsorption of many organic constituents that cannot be directly analyzed in wastewater residues). Breakthrough occurs when the carbon has become saturated with the constituent (or indicator parameter) and substantial change in adsorption rate associated with that constituent occurs.
CHOXD	Chemical or electrolytic oxidation utilizing the following oxidation reagents (or waste reagents) or combinations or reagents: 1) hypochlorite (e.g., bleach); 2) chlorine; 3) chlorine dioxide;

4) ozone or UV (ultraviolet light) assisted ozone;

5) peroxides;

6) persulfates;

7) perchlorates;

8) permanganates; or

9) other oxidizing reagents of equivalent efficiency, performed in units operated so that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon (TOC) can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues). Chemical oxidation specifically includes what is commonly referred to as alkaline chlorination.

CHRED Chemical reduction utilizing the following reducing reagents (or waste reagents) or combinations of reagents:

1) sulfur dioxide;

2) sodium, potassium, or alkali salts of sulfites, bisulfites, metabisulfites, and polyethylene glycols (e.g., NaPEG and KPEG);

3) sodium hydrosulfide;

4) ferrous salts; or

5) other reducing reagents of equivalent efficiency, performed in units operated such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic halogens (TOX) can often be used as an indicator parameter for the reduction of many halogenated organic constituents that cannot be directly analyzed in wastewater residues). Chemical reduction is commonly used for the reduction of hexavalent chromium to the trivalent state.

CMBST High temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirements of Subpart O of 35 Ill. Adm. Code 724, Subpart O of 35 Ill. Adm. Code 725, or Subpart H of 35 Ill. Adm. Code 726, and in other units operated in accordance with applicable technical operating requirements; and certain non-combustive technologies, such as the Catalytic Extraction Process.

DEACT Deactivation to remove the hazardous characteristics of a waste due to its ignitability, corrosivity, or reactivity.

FSUBS Fuel substitution in units operated in accordance with applicable technical operating requirements.

HLVIT Vitrification of high-level mixed radioactive wastes in units in compliance with all applicable radioactive protection requirements under control of the federal Nuclear Regulatory Commission.

IMERC Incineration of wastes containing organics and mercury in units operated in accordance with the technical operating requirements of Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725. All wastewater and nonwastewater residues derived from this process must then comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., high or low mercury subcategories).

INCIN Incineration in units operated in accordance with the technical operating requirements of Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725.

LLEXT Liquid-liquid extraction (often referred to as solvent extraction) of organics from liquid wastes into an immiscible solvent for which the hazardous constituents have a greater solvent affinity, resulting in an extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery or reuse and a raffinate (extracted liquid waste) proportionately low in organics that must undergo further treatment as specified in the standard.

MACRO Macroencapsulation with surface coating materials such as polymeric organics (e.g., resins and plastics) or with a jacket of inert inorganic materials to substantially reduce surface exposure to potential leaching media.

Macroencapsulation specifically does not include any material that would be classified as a tank or container according to 35 Ill. Adm. Code 720.110.

NEUTR Neutralization with the following reagents (or waste reagents) or combinations of reagents:

1) acids;

2) bases; or

3) water (including wastewaters) resulting in a pH greater than two but less than 12.5 as measured in the aqueous residuals.

NLDBR No land disposal based on recycling.

POLYM Formation of complex high-molecular weight solids through polymerization of monomers in high-TOC D001 nonwastewaters that are chemical components in the manufacture of plastics.

PRECP Chemical precipitation of metals and other inorganics as insoluble precipitates of oxides, hydroxides, carbonates, sulfides, sulfates, chlorides, fluorides, or phosphates. The following reagents (or waste reagents) are typically used alone or in combination:

1) lime (i.e., containing oxides or hydroxides of calcium or magnesium);

2) caustic (i.e., sodium or potassium hydroxides);

3) soda ash (i.e., sodium carbonate);

4) sodium sulfide;

5) ferric sulfate or ferric chloride;

6) alum; or

7) sodium sulfate. Additional flocculating, coagulation, or similar reagents or processes that enhance sludge dewatering characteristics are not precluded from use.

RBERY Thermal recovery of beryllium.

RCGAS Recovery or reuse of compressed gases including techniques such as reprocessing of the gases for reuse or resale; filtering or adsorption of impurities; remixing for direct reuse or resale; and use of the gas as a fuel source.

RCORR Recovery of acids or bases utilizing one or more of the following recovery technologies:

1) distillation (i.e., thermal concentration);

2) ion exchange;

3) resin or solid adsorption;

4) reverse osmosis; or

5) incineration for the recovery of acid

Note: this does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the above listed recovery technologies.

RLEAD Thermal recovery of lead in secondary lead smelters.

RMERC Retorting or roasting in a thermal processing unit capable of volatilizing mercury and subsequently condensing the volatilized mercury for recovery. The retorting or roasting unit (or facility) must be subject to one or more of the following:

a) A federal national emissions standard for hazardous air pollutants (NESHAP) for mercury (subpart E of 40 CFR 61);

b) A best available control technology (BACT) or a lowest achievable emission rate (LAER) standard for mercury imposed pursuant to a prevention of significant deterioration (PSD) permit (including 35 Ill. Adm. Code 201 through 203); or

c) A state permit that establishes emission limitations (within meaning of Section 302 of the Clean Air Act) for mercury, including a permit issued pursuant to 35 Ill. Adm. Code 201. All wastewater and nonwastewater residues derived from this process must then comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., high or low mercury subcategories).

RMETL Recovery of metals or inorganics utilizing one or more of the following direct physical or removal technologies:

1) ion exchange;

2) resin or solid (i.e., zeolites) adsorption;

3) reverse osmosis;

4) chelation or solvent extraction;

5) freeze crystallization;

6) ultrafiltration; or

7) simple precipitation (i.e., crystallization)

Note: this does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the above listed recovery technologies.

RORGS Recovery of organics utilizing one or more of the following technologies:

1) Distillation;

2) thin film evaporation;

3) steam stripping;

4) carbon adsorption;

5) critical fluid extraction;

6) liquid-liquid extraction;

7) precipitation or crystallization (including freeze crystallization); or

8) chemical phase separation techniques (i.e., addition of acids, bases, demulsifiers, or similar chemicals).

Note: This does not preclude the use of other physical phase separation techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the above listed recovery technologies.

RTHRM Thermal recovery of metals or inorganics from nonwastewaters in units defined as cement kilns, blast furnaces, smelting, melting and refining furnaces, combustion devices used to recover sulfur values from spent sulfuric acid and "other devices" determined by the Agency pursuant to 35 Ill. Adm. Code 720.110, the definition of "industrial furnace."

RZINC Resmelting in high temperature metal recovery units for the purpose of recovery of zinc.

STABL Stabilization with the following reagents (or waste reagents) or combinations of reagents:

1) Portland cement; or

2) lime or pozzolans (e.g., fly ash and cement kiln dust) – this does not preclude the addition of reagents (e.g., iron salts, silicates, and clays) designed to enhance the set or cure time or compressive strength, or to overall reduce the leachability of the metal or inorganic.

SSTRP Steam stripping of organics from liquid wastes utilizing direct application of steam to the wastes operated such that liquid and vapor flow rates, as well as, temperature and pressure ranges, have been optimized, monitored, and maintained. These operating parameters are dependent upon the design parameters of the unit, such as, the number of separation stages and the internal column design. Thus, resulting in a condensed extract high in organics that must

undergo either incineration, reuse as a fuel, or other recovery or reuse and an extracted wastewater that must undergo further treatment as specified in the standard.

WETOX Wet air oxidation performed in units operated such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., total organic carbon (TOC) can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues).

WTRRX Controlled reaction with water for highly reactive inorganic or organic chemicals with precautionary controls for protection of workers from potential violent reactions as well as precautionary controls for potential emissions of toxic or ignitable levels of gases released during the reaction.

Note 1: When a combination of these technologies (i.e., a treatment train) is specified as a single treatment standard, the order of application is specified in Table T to this Part by indicating the five letter technology code that must be applied first, then the designation "fb." (an abbreviation for "followed by"), then the five letter technology code for the technology that must be applied next, and so on.

Note 2: When more than one technology (or treatment train) are specified as alternative treatment standards, the five letter technology codes (or the treatment trains) are separated by a semicolon (;) with the last technology preceded by the word "OR." This indicates that any one of these BDAT technologies or treatment trains can be used for compliance with the standard.

BOARD NOTE: Derived from Table I in 40 CFR 268.42 (2007)~~(2005)~~.

(Source: Amended at 32 Ill. Reg. 12840, effective July 14, 2008)

Section 728.TABLE F Alternative Treatment Standards For Hazardous Debris

a) Hazardous debris must be treated by either the standards indicated in this Table F or by the waste-specific treatment standards for the waste contaminating the debris. The treatment standards must be met for each type of debris contained in a mixture of debris types, unless the debris is converted into treatment residue as a result of the treatment process. Debris treatment residuals are subject to the waste-specific treatment standards for the waste contaminating the debris.

b) Definitions. For the purposes of this Table F, the following terms are defined as follows:

"Clean debris surface" means the surface, when viewed without magnification, must be free of all visible contaminated soil and hazardous waste except that residual staining from soil and waste consisting of light shadows, slight streaks, or minor discolorations, and soil and waste in cracks, crevices, and pits may be present provided that such staining and waste and soil in cracks, crevices, and pits must be limited to no more than five percent of each square inch of surface area.

"Contaminant restriction" means that the technology is not BDAT for that contaminant. If debris containing a restricted contaminant is treated by the technology, the contaminant must be subsequently treated by a technology for which it is not restricted in order to be land disposed (and excluded from Subtitle C regulation).

"Dioxin-listed wastes" means wastes having any of USEPA hazardous waste numbers FO20, FO21, FO22, FO23, FO26, or FO27.

c) Notes. In this Table F, the following text is to be read in conjunction with the tabulated text where the appropriate notations appear:

[1] Acids, solvents, and chemical reagents may react with some debris and contaminants to form hazardous compounds. For example, acid washing of cyanide-contaminated debris could result in the formation of hydrogen cyanide. Some acids may also react violently with some debris and contaminants, depending on the concentration of the acid and the type of debris and contaminants. Debris treaters should refer to the safety precautions specified in Material Safety Data Sheets for various acids to

avoid applying an incompatible acid to a particular debris/contaminant combination. For example, concentrated sulfuric acid may react violently with certain organic compounds, such as acrylonitrile.

[2] If reducing the particle size of debris to meet the treatment standards results in material that no longer meets the 60 mm minimum particle size limit for debris, such material is subject to the waste-specific treatment standards for the waste contaminating the material, unless the debris has been cleaned and separated from contaminated soil and waste prior to size reduction. At a minimum, simple physical or mechanical means must be used to provide such cleaning and separation of nondebris materials to ensure that the debris surface is free of caked soil, waste, or other nondebris material.

[3] Thermal desorption is distinguished from thermal destruction in that the primary purpose of thermal desorption is to volatilize contaminants and to remove them from the treatment chamber for subsequent destruction or other treatment.

[4] The demonstration of "equivalent technology" pursuant to Section 728.142(b) must document that the technology treats contaminants subject to treatment to a level equivalent to that required by the performance and design and operating standards for other technologies in this table such that residual levels of hazardous contaminants will not pose a hazard to human health and the environment absent management controls.

[5] Any soil, waste, and other nondebris material that remains on the debris surface (or remains mixed with the debris) after treatment is considered a treatment residual that must be separated from the debris using, at a minimum, simple physical or mechanical means. Examples of simple physical or mechanical means are vibratory or trommel screening or water washing. The debris surface need not be cleaned to a "clean debris surface" as defined in subsection (b) of this Section when separating treated debris from residue; rather, the surface must be free of caked soil, waste, or other nondebris material. Treatment residuals are subject to the waste-specific treatment standards for the waste contaminating the debris.

Technology description	Performance or design and operating standard	Contaminant restrictions
A. Extraction Technologies:		
1. Physical Extraction		
a. Abrasive Blasting: Removal of contaminated debris surface layers using water or air pressure to propel a solid media (e.g., steel shot, aluminum oxide grit, plastic beads).	Glass, Metal, Plastic, Rubber: Treatment to a clean debris surface. Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Removal of at least 0.6 cm of the surface layer; treatment to a clean debris surface.	All Debris: None.
b. Scarification, Grinding, and Planing: Process utilizing striking piston heads, saws, or rotating grinding wheels such that contaminated debris surface layers are removed.	Same as above	Same as above
c. Spalling: Drilling or chipping holes at appropriate locations and depth in the contaminated debris surface and applying a tool that exerts a force on the sides of those holes such that the surface layer is removed. The surface layer removed remains hazardous debris subject to the debris treatment standards.	Same as above	Same as above
d. Vibratory Finishing: Process utilizing scrubbing media, flushing fluid, and oscillating energy such that hazardous	Same as above	Same as above

contaminants or contaminated debris surface layers are removed.[1]		
e. High Pressure Steam and Water Sprays: Application of water or steam sprays of sufficient temperature, pressure, residence time, agitation, surfactants, and detergents to remove hazardous contaminants from debris surfaces or to remove contaminated debris surface layers	Same as above	Same as above.
2. Chemical Extraction		
a. Water Washing and Spraying: Application of water sprays or water baths of sufficient temperature, pressure, residence time, agitation, surfactants, acids, bases, and detergents to remove hazardous contaminants from debris surfaces and surface pores or to remove contaminated debris surface layers.	All Debris: Treatment to a clean debris surface; Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Debris must be no more than 1.2 cm (½ inch) in one dimension (i.e., thickness limit,[2] except that this thickness limit may be waived under an "Equivalent Technology" approval pursuant to Section 728.142(b);[4] debris surfaces must be in contact with water solution for at least 15 minutes	Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Contaminant must be soluble to at least five percent by weight in water solution or five percent by weight in emulsion; if debris is contaminated with a dioxin-listed waste,[3] an "Equivalent Technology" approval pursuant to Section 728.142(b) must be obtained.[4]
b. Liquid Phase Solvent Extraction: Removal of hazardous contaminants from debris surfaces and surface pores by applying a nonaqueous liquid or liquid solution that causes the hazardous contaminants to enter the liquid	Same as above	Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Same as above, except that contaminant must be soluble to at least five percent by weight in the solvent.

phase and be flushed away from the debris along with the liquid or liquid solution while using appropriate agitation, temperature, and residence time.[1]		
c. Vapor Phase Solvent Extraction: Application of an organic vapor using sufficient agitation, residence time, and temperature to cause hazardous contaminants on contaminated debris surfaces and surface pores to enter the vapor phase and be flushed away with the organic vapor.[1]	Same as above, except that brick, cloth, concrete, paper, pavement, rock and wood surfaces must be in contact with the organic vapor for at least 60 minutes.	Same as above.
3. Thermal Extraction		
a. High Temperature Metals Recovery: Application of sufficient heat, residence time, mixing, fluxing agents, or carbon in a smelting, melting, or refining furnace to separate metals from debris.	For refining furnaces, treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and, prior to further treatment, such residuals must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris.	Debris contaminated with a dioxin-listed waste:[2] Obtain an "Equivalent Technology" approval pursuant to Section 728.142(b).[4]
b. Thermal Desorption: Heating in an enclosed chamber under either oxidizing or nonoxidizing atmospheres at sufficient temperature and residence time to vaporize hazardous contaminants from contaminated surfaces and	All Debris: Obtain an "Equivalent Technology" approval pursuant to Section 728.142(b);[4] treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and, prior to further treatment, such	All Debris: Metals other than mercury.

surface pores and to remove the contaminants from the heating chamber in a gaseous exhaust gas.[3]	residue must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris. Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Debris must be no more than 10 cm (4 inches) in one dimension (i.e., thickness limit),[2] except that this thickness limit may be waived under the "Equivalent Technology" approval	
B. Destruction Technologies:		
1. Biological Destruction (Biodegradation): Removal of hazardous contaminants from debris surfaces and surface pores in an aqueous solution and biodegradation~~biodegration~~ of organic or nonmetallic inorganic compounds (i.e., inorganics that contain phosphorus, nitrogen, or sulfur) in units operated under either aerobic or anaerobic conditions.	All Debris: Obtain an "Equivalent Technology" approval pursuant to Section 728.142(b);[4] treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and, prior to further treatment, such residue must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris. Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Debris must be no more than 1.2 cm (½ inch) in one dimension (i.e., thickness limit),[2] except that this thickness limit may be waived under the "Equivalent Technology" approval	All Debris: Metal contaminants.
2. Chemical Destruction		
a. Chemical Oxidation:	All Debris: Obtain an	All Debris: Metal contaminants.

Chemical or electrolytic oxidation utilizing the following oxidation reagents (or waste reagents) or combination of reagents: (1) hypochlorite (e.g., bleach); (2) chlorine; (3) chlorine dioxide; (4) ozone or UV (ultraviolet light) assisted ozone; (5) peroxides; (6) persulfates; (7) perchlorates; (8) permanganates; or (9) other oxidizing reagents of equivalent destruction efficiency.[1] Chemical oxidation specifically includes what is referred to as alkaline chlorination.	"Equivalent Technology" approval pursuant to 35 Ill. Adm. Code.142(b);[4] treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and, prior to further treatment, such residue must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris. Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Debris must be no more than 1.2 cm (½ inch) in one dimension (i.e., thickness limit),[2] except that this thickness limit may be waived under the "Equivalent Technology" approval	
b. Chemical Reduction: Chemical reaction utilizing the following reducing reagents (or waste reagents) or combination of reagents: (1) sulfur dioxide; (2) sodium, potassium, or alkali salts of sulfites, bisulfites, and metabisulfites, and polyethylene glycols (e.g., NaPEG and KPEG); (3) sodium hydrosulfide; (4) ferrous salts; or (5) other reducing reagents of equivalent efficiency.[1]	Same as above	Same as above.
3. Thermal Destruction: Treatment in an incinerator operating in accordance with Subpart O of 35 Ill. Adm. Code	Treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and,	Brick, Concrete, Glass, Metal, Pavement, Rock, Metal: Metals other than mercury, except that there are no metal restrictions

724 or Subpart O of 35 Ill. Adm. Code 725; a boiler or industrial furnace operating in accordance with Subpart H of 35 Ill. Adm. Code 726, or other thermal treatment unit operated in accordance with Subpart X of 35 Ill. Adm. Code 724, or Subpart P of 35 Ill. Adm. Code 725, but excluding for purposes of these debris treatment standards Thermal Desorption units.	prior to further treatment, such residue must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris.	for vitrification. Debris contaminated with a dioxin-listed waste.[3] Obtain an "Equivalent Technology" approval pursuant to Section 728.142(b),[4] except that this requirement does not apply to vitrification.
C. Immobilization Technologies:		
1. Macroencapsulation: Application of surface coating materials such as polymeric organics (e.g., resins and plastics) or use of a jacket of inert inorganic materials to substantially reduce surface exposure to potential leaching media.	Encapsulating material must completely encapsulate debris and be resistant to degradation by the debris and its contaminants and materials into which it may come into contact after placement (leachate, other waste, microbes).	None.
2. Microencapsulation: Stabilization of the debris with the following reagents (or waste reagents) such that the leachability of the hazardous contaminants is reduced: (1) Portland cement; or (2) lime/ pozzolans (e.g., fly ash and cement kiln dust). Reagents (e.g., iron salts, silicates, and clays) may be added to enhance the set/cure time or compressive	Leachability of the hazardous contaminants must be reduced.	None.

strength, or to reduce the leachability of the hazardous constituents.[2]		
3. Sealing: Application of an appropriate material that adheres tightly to the debris surface to avoid exposure of the surface to potential leaching media. When necessary to effectively seal the surface, sealing entails pretreatment of the debris surface to remove foreign matter and to clean and roughen the surface. Sealing materials include epoxy, silicone, and urethane compounds, but paint may not be used as a sealant	Sealing must avoid exposure of the debris surface to potential leaching media and sealant must be resistant to degradation by the debris and its contaminants and materials into which it may come into contact after placement (leachate, other waste, microbes).	None.

BOARD NOTE: Derived from Table 1 to 40 CFR 268.45 (2005).

(Source: Amended at 32 Ill. Reg. 12840, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 728.TABLE T Treatment Standards for Hazardous Wastes

Note: The treatment standards that heretofore appeared in tables in Sections 728.141, 728.142, and 728.143 have been consolidated into this table.

Waste Code

Waste Description and Treatment or Regulatory Subcategory[1]

Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
Common Name	CAS[2] Number	Concentration[3] in mg/ℓ[3]; or Technology Code[4]	Concentration[5] in mg/kg[5] unless noted as " mg/ℓ TCLP"; or Technology Code[4]
D001[9]			
Ignitable Characteristic Wastes, except for the 35 Ill. Adm. Code 721.121(a)(1) High TOC Subcategory.			
NA	NA	DEACT and meet Section 728.148 standards[8]; or RORGS; or CMBST	DEACT and meet Section 728.148 standards[8]; or RORGS; or CMBST
D001[9]			
High TOC Ignitable Characteristic Liquids Subcategory based on 35 Ill. Adm. Code 721.121(a)(1) – Greater than or equal to 10 percent total organic carbon.			
(Note: This subcategory consists of nonwastewaters only.)			
NA	NA	NA	RORGS; CMBST; or POLYM
D002[9]			

Corrosive Characteristic Wastes.

NA	NA	DEACT and meet Section 728.148 standards[8]	DEACT and meet Section 728.148 standards[8]

D002, D004, D005, D006, D007, D008, D009, D010, D011

Radioactive high level wastes generated during the reprocessing of fuel rods.

(Note: This subcategory consists of nonwastewaters only.)

Corrosivity (pH)	NA	NA	HLVIT
Arsenic	7440-38-2	NA	HLVIT
Barium	7440-39-3	NA	HLVIT
Cadmium	7440-43-9	NA	HLVIT
Chromium (Total)	7440-47-3	NA	HLVIT
Lead	7439-92-1	NA	HLVIT
Mercury	7439-97-6	NA	HLVIT
Selenium	7782-49-2	NA	HLVIT
Silver	7440-22-4	NA	HLVIT

D003[9]

Reactive Sulfides Subcategory based on 35 Ill. Adm. Code 721.123(a)(5).

NA	NA	DEACT	DEACT

D003[9]

Explosive subcategory based on 35 Ill. Adm. Code 721.123(a)(6), (a)(7), and (a)(8).

NA	NA	DEACT and meet Section 728.148 standards[8]	DEACT and meet Section 728.148 standards[8]

D003[9]

Unexploded ordnance and other explosive devices that have been the subject of an emergency response.

NA	NA	DEACT	DEACT

D003[9]

Other Reactives Subcategory based on 35 Ill. Adm. Code 721.123(a)(1).

NA	NA	DEACT and meet Section 728.148 standards[8]	DEACT and meet Section 728.148 standards[8]

D003[9]

Water Reactive Subcategory based on 35 Ill. Adm. Code 721.123(a)(2), (a)(3), and (a)(4).

(Note: This subcategory consists of nonwastewaters only.)

NA	NA	NA	DEACT and meet Section 728.148 standards[8]

D003[9]

Reactive Cyanides Subcategory based on 35 Ill. Adm. Code 721.123(a)(5).

Cyanides (Total)[7]	57-12-5	–	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

D004[9]

Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for arsenic based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Arsenic	7440-38-2	1.4 and meet Section 728.148 standards[8]	5.0 mg/ℓ TCLP and meet Section 728.148 standards[8]

D005[9]

Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for barium based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Barium	7440-39-3	1.2 and meet Section 728.148 standards[8]	21 mg/ℓ TCLP and meet Section 728.148 standards[8]

D006[9]

Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for cadmium based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Cadmium	7440-43-9	0.69 and meet Section 728.148 standards[8]	0.11 mg/ℓ TCLP and meet Section 728.148 standards[8]

D006[9]

Cadmium-Containing Batteries Subcategory.

(Note: This subcategory consists of nonwastewaters only.)

Cadmium	7440-43-9	NA	RTHRM

D006[9]

Radioactively contaminated cadmium-containing batteries.

(Note: This subcategory consists of nonwastewaters only.)

Cadmium	7440-43-9	NA	Macroencapsulation in accordance with Section 728.145

D007[9]

Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for chromium based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Chromium (Total)	7440-47-3	2.77 and meet Section 728.148 standards[8]	0.60 mg/ℓ TCLP and meet Section 728.148 standards[8]

D008[9]

Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for lead based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Lead	7439-92-1	0.69 and meet Section 728.148 standards[8]	0.75 mg/ℓ TCLP and meet Section 728.148 standards[8]

D008[9]

Lead Acid Batteries Subcategory

(Note: This standard only applies to lead acid batteries that are identified as RCRA hazardous wastes and that are not excluded elsewhere from regulation under the land disposal restrictions of this Part or exempted under other regulations (see 35 Ill. Adm. Code 726.180). This subcategory consists of nonwastewaters only.)

Lead	7439-92-1	NA	RLEAD

D008[9]

Radioactive Lead Solids Subcategory

(Note: These lead solids include, but are not limited to, all forms of lead shielding and other elemental forms of lead. These lead solids do not include treatment residuals such as hydroxide sludges, other wastewater treatment residuals, or incinerator ashes that can undergo conventional pozzolanic stabilization, nor do they include organo-lead materials that can be incinerated and stabilized as ash. This subcategory consists of nonwastewaters only.)

Lead	7439-92-1	NA	MACRO

D009[9]

Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a); and contain greater than or equal to 260 mg/kg total mercury that also contain organics and are not incinerator residues. (High Mercury-Organic Subcategory)

Mercury	7439-97-6	NA	IMERC; or RMERC

D009[9]

Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a); and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including incinerator residues and residues from RMERC. (High Mercury-Inorganic Subcategory)

Mercury	7439-97-6	NA	RMERC

D009[9]

Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number

EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a); and contain less than 260 mg/kg total mercury. (Low Mercury Subcategory)

Mercury	7439-97-6	NA	0.20 mg/ℓ TCLP and meet Section 728.148 standards[8]

D009[9]

All other nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a); and contain less than 260 mg/kg total mercury and that are not residues from RMERC. (Low Mercury Subcategory)

Mercury	7439-97-6	NA	0.025 mg/ℓ TCLP and meet Section 728.148 standards[8]

D009[9]

All D009 wastewaters.

Mercury	7439-97-6	0.15 and meet Section 728.148 standards[8]	NA

D009[9]

Elemental mercury contaminated with radioactive materials.

(Note: This subcategory consists of nonwastewaters only.)

Mercury	7439-97-6	NA	AMLGM

D009[9]

Hydraulic oil contaminated with Mercury Radioactive Materials Subcategory.

(Note: This subcategory consists of nonwastewaters only.)

Mercury	7439-97-6	NA	IMERC

D009[9]

Radioactively contaminated mercury-containing batteries.

(Note: This subcategory consists of nonwastewaters only.)

Mercury	7439-97-6	NA	Macroencapsulation in accordance with Section 728.145

D010[9]

Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for selenium based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Selenium	7782-49-2	0.82	5.7 mg/ℓ TCLP and meet Section 728.148 standards[8]

D011[9]

Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for silver based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Silver	7440-22-4	0.43	0.14 mg/ℓ TCLP and meet Section 728.148 standards[8]

D011[9]

Radioactively contaminated silver-containing batteries.

(Note: This subcategory consists of nonwastewaters only.)

Silver	7440-22-4	NA	Macroencapsulation in accordance with Section 728.145

D012[9]

Wastes that are TC for endrin based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Endrin	72-20-8	BIODG; or CMBST	0.13 and meet Section 728.148 standards[8]
Endrin aldehyde	7421-93-4	BIODG; or CMBST	0.13 and meet Section 728.148 standards[8]

D013[9]

Wastes that are TC for lindane based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

α-BHC	319-84-6	CARBN; or CMBST	0.066 and meet Section 728.148 standards[8]
β-BHC	319-85-7	CARBN; or CMBST	0.066 and meet Section 728.148 standards[8]
δ-BHC	319-86-8	CARBN; or CMBST	0.066 and meet Section 728.148 standards[8]

γ-BHC (Lindane)	58-89-9	CARBN; or CMBST	0.066 and meet Section 728.148 standards[8]

D014[9]

Wastes that are TC for methoxychlor based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Methoxychlor	72-43-5	WETOX or CMBST	0.18 and meet Section 728.148 standards[8]

D015[9]

Wastes that are TC for toxaphene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Toxaphene	8001-35-2	BIODG or CMBST	2.6 and meet Section 728.148 standards[8]

D016[9]

Wastes that are TC for 2,4-D (2,4-dichlorophenoxyacetic acid) based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

2,4-D (2,4-dichlorophenoxyacetic acid)	94-75-7	CHOXD; BIODG; or CMBST	10 and meet Section 728.148 standards[8]

D017[9]

Wastes that are TC for 2,4,5-TP (Silvex) based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

2,4,5-TP (Silvex)	93-72-1	CHOXD or CMBST	7.9 and meet Section 728.148 standards[8]

D018[9]

Wastes that are TC for benzene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Benzene	71-43-2	0.14 and meet Section 728.148 standards[8]	10 and meet Section 728.148 standards[8]

D019[9]

Wastes that are TC for carbon tetrachloride based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Carbon tetrachloride	56-23-5	0.057 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

D020[9]

Wastes that are TC for chlordane based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Chlordane (α and χ isomers)	57-74-9	0.0033 and meet Section 728.148 standards[8]	0.26 and meet Section 728.148 standards[8]

D021[9]

Wastes that are TC for chlorobenzene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Chlorobenzene	108-90-7	0.057 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

D022[9]

Wastes that are TC for chloroform based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Chloroform	67-66-3	0.046 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

D023[9]

Wastes that are TC for o-cresol based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

o-Cresol	95-48-7	0.11 and meet Section 728.148 standards[8]	5.6 and meet Section 728.148 standards[8]

D024[9]

Wastes that are TC for m-cresol based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77 and meet Section 728.148 standards[8]	5.6 and meet Section 728.148 standards[8]

D025[9]

Wastes that are TC for p-cresol based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77 and meet Section 728.148 standards[8]	5.6 and meet Section 728.148 standards[8]

D026[9]

Wastes that are TC for cresols (total) based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88 and meet Section 728.148 standards[8]	11.2 and meet Section 728.148 standards[8]

D027[9]

Wastes that are TC for p-dichlorobenzene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

p-Dichlorobenzene (1,4-Dichlorobenzene)	106-46-7	0.090 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

D028[9]

Wastes that are TC for 1,2-dichloroethane based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

1,2-Dichloroethane	107-06-2	0.21 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

D029[9]

Wastes that are TC for 1,1-dichloroethylene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

1,1-Dichloroethylene	75-35-4	0.025 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

D030[9]

Wastes that are TC for 2,4-dinitrotoluene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

2,4-Dinitrotoluene	121-14-2	0.32 and meet Section 728.148 standards[8]	140 and meet Section 728.148 standards[8]

D031[9]

Wastes that are TC for heptachlor based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Heptachlor	76-44-8	0.0012 and meet Section 728.148 standards[8]	0.066 and meet Section 728.148 standards[8]
Heptachlor epoxide	1024-57-3	0.016 and meet Section 728.148 standards[8]	0.066 and meet Section 728.148 standards[8]

D032[9]

Wastes that are TC for hexachlorobenzene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Hexachlorobenzene	118-74-1	0.055 and meet Section 728.148 standards[8]	10 and meet Section 728.148 standards[8]

D033[9]

Wastes that are TC for hexachlorobutadiene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Hexachlorobutadiene	87-68-3	0.055 and meet Section 728.148 standards[8]	5.6 and meet Section 728.148 standards[8]

D034[9]

Wastes that are TC for hexachloroethane based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical

Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Hexachloroethane	67-72-1	0.055 and meet Section 728.148 standards[8]	30 and meet Section 728.148 standards[8]

D035[9]

Wastes that are TC for methyl ethyl ketone based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Methyl ethyl ketone	78-93-3	0.28 and meet Section 728.148 standards[8]	36 and meet Section 728.148 standards[8]

D036[9]

Wastes that are TC for nitrobenzene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Nitrobenzene	98-95-3	0.068 and meet Section 728.148 standards[8]	14 and meet Section 728.148 standards[8]

D037[9]

Wastes that are TC for pentachlorophenol based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Pentachlorophenol	87-86-5	0.089 and meet Section 728.148 standards[8]	7.4 and meet Section 728.148 standards[8]

D038[9]

Wastes that are TC for pyridine based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Pyridine	110-86-1	0.014 and meet Section 728.148 standards[8]	16 and meet Section 728.148 standards[8]

D039[9]

Wastes that are TC for tetrachloroethylene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Tetrachloroethylene	127-18-4	0.056 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

D040[9]

Wastes that are TC for trichloroethylene based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Trichloroethylene	79-01-6	0.054 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

D041[9]

Wastes that are TC for 2,4,5-trichlorophenol based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical

Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

2,4,5-Trichlorophenol	95-95-4	0.18 and meet Section 728.148 standards[8]	7.4 and meet Section 728.148 standards[8]

D042[9]

Wastes that are TC for 2,4,6-trichlorophenol based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

2,4,6-Trichlorophenol	88-06-2	0.035 and meet Section 728.148 standards[8]	7.4 and meet Section 728.148 standards[8]

D043[9]

Wastes that are TC for vinyl chloride based on Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Vinyl chloride	75-01-4	0.27 and meet Section 728.148 standards[8]	6.0 and meet Section 728.148 standards[8]

F001, F002, F003, F004 & F005

F001, F002, F003, F004, or F005 solvent wastes that contain any combination of one or more of the following spent solvents: acetone, benzene, n-butyl alcohol, carbon disulfide, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, o-cresol, m-cresol, p-cresol, cyclohexanone, o-dichlorobenzene, 2-ethoxyethanol, ethyl acetate, ethyl benzene, ethyl ether, isobutyl alcohol, methanol, methylene chloride, methyl ethyl ketone, methyl isobutyl ketone, nitrobenzene, 2-nitropropane, pyridine, tetrachloroethylene, toluene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, 1,1,2-trichloro-1,2,2-trifluoroethane, trichloroethylene,

trichloromonofluoromethane, or xylenes (except as specifically noted in other subcategories). See further details of these listings in 35 Ill. Adm. Code 721.131.

Acetone	67-64-1	0.28	160
Benzene	71-43-2	0.14	10
n-Butyl alcohol	71-36-3	5.6	2.6
Carbon disulfide	75-15-0	3.8	NA
Carbon tetrachloride	56-23-5	0.057	6.0
Chlorobenzene	108-90-7	0.057	6.0
o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88	11.2
Cyclohexanone	108-94-1	0.36	NA
o-Dichlorobenzene	95-50-1	0.088	6.0
Ethyl acetate	141-78-6	0.34	33
Ethyl benzene	100-41-4	0.057	10
Ethyl ether	60-29-7	0.12	160
Isobutyl alcohol	78-83-1	5.6	170
Methanol	67-56-1	5.6	NA
Methylene chloride	75-9-2	0.089	30
Methyl ethyl ketone	78-93-3	0.28	36
Methyl isobutyl ketone	108-10-1	0.14	33
Nitrobenzene	98-95-3	0.068	14
Pyridine	110-86-1	0.014	16
Tetrachloroethylene	127-18-4	0.056	6.0
Toluene	108-88-3	0.080	10
1,1,1-Trichloroethane	71-55-6	0.054	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
Trichloroethylene	79-01-6	0.054	6.0

Trichloromonofluoromethane	75-69-4	0.020	30
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30

F001, F002, F003, F004 & F005

F003 and F005 solvent wastes that contain any combination of one or more of the following three solvents as the only listed F001 through F005 solvents: carbon disulfide, cyclohexanone, or methanol. (Formerly Section 728.141(c)).

Carbon disulfide	75-15-0	3.8	4.8 mg/ℓ TCLP
Cyclohexanone	108-94-1	0.36	0.75 mg/ℓ TCLP
Methanol	67-56-1	5.6	0.75 mg/ℓ TCLP

F001, F002, F003, F004 & F005

F005 solvent waste containing 2-Nitropropane as the only listed F001 through F005 solvent.

2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

F001, F002, F003, F004 & F005

F005 solvent waste containing 2-Ethoxyethanol as the only listed F001 through F005 solvent.

2-Ethoxyethanol	110-80-5	BIODG; or CMBST	CMBST

F006

Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning or stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.

Cadmium	7440-43-9	0.69	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Silver	7440-22-4	NA	0.14 mg/ℓ TCLP

F007

Spent cyanide plating bath solutions from electroplating operations.

Cadmium	7440-43-9	NA	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Silver	7440-22-4	NA	0.14 mg/ℓ TCLP

F008

Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.

Cadmium	7440-43-9	NA	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Silver	7440-22-4	NA	0.14 mg/ℓ TCLP

F009

Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.

Cadmium	7440-43-9	NA	0.11 mg/ℓ TCLP

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Silver	7440-22-4	NA	0.14 mg/ℓ TCLP

F010

Quenching bath residues from oil baths from metal heat-treating operations where cyanides are used in the process.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	NA

F011

Spent cyanide solutions from salt bath pot cleaning from metal heat-treating operations.

Cadmium	7440-43-9	NA	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Silver	7440-22-4	NA	0.14 mg/ℓ TCLP

F012

Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process.

Cadmium	7440-43-9	NA	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Silver	7440-22-4	NA	0.14 mg/ℓ TCLP

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

F019

Wastewater treatment sludges from the chemical conversion coating of aluminum, except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

F020, F021, F022, F023, F026

Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of: (1) tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives, excluding wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol (i.e., F020); (2) pentachlorophenol, or of intermediates used to produce its derivatives (i.e., F021); (3) tetra-, penta-, or hexachlorobenzenes under alkaline conditions (i.e., F022) and wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of: (1) tri- or tetrachlorophenols, excluding wastes from equipment used only for the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol (F023) or (2) tetra-, penta-, or hexachlorobenzenes under alkaline conditions (i.e., F026).

HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063	0.001
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035	0.001
Pentachlorophenol	87-86-5	0.089	7.4
TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063	0.001

2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4

F024

Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in 35 Ill. Adm. Code 721.131 or 721.132.)

All F024 wastes	NA	CMBST[11]	CMBST[11]
2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
3-Chloropropylene	107-05-1	0.036	30
1,1-Dichloroethane	75-34-3	0.059	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
1,2-Dichloropropane	78-87-5	0.85	18
cis-1,3-Dichloropropylene	10061-01-5	0.036	18
trans-1,3-Dichloropropylene	10061-02-6	0.036	18
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Hexachloroethane	67-72-1	0.055	30
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP

F025

Condensed light ends from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one up to and including five, with varying amounts and positions of chlorine substitution. F025 – Light Ends Subcategory.

Carbon tetrachloride	56-23-5	0.057	6.0
Chloroform	67-66-3	0.046	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
1,1-Dichloroethylene	75-35-4	0.025	6.0
Methylene chloride	75-9-2	0.089	30
1,1,2-Trichloroethane	79-00-5	0.054	6.0

Trichloroethylene	79-01-6	0.054	6.0
Vinyl chloride	75-01-4	0.27	6.0

F025

Spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. F025 – Spent Filters/Aids and Desiccants Subcategory.

Carbon tetrachloride	56-23-5	0.057	6.0
Chloroform	67-66-3	0.046	6.0
Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachloroethane	67-72-1	0.055	30
Methylene chloride	75-9-2	0.089	30
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0
Vinyl chloride	75-01-4	0.27	6.0

F027

Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)

HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063	0.001
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035	0.001
Pentachlorophenol	87-86-5	0.089	7.4
TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063	0.001

TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063	0.001
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4

F028

Residues resulting from the incineration or thermal treatment of soil contaminated with USEPA hazardous waste numbers F020, F021, F023, F026, and F027.

HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063	0.001
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035	0.001
Pentachlorophenol	87-86-5	0.089	7.4
TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063	0.001
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4

F032

Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with 35 Ill. Adm. Code 721.135 or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or penta-chlorophenol.

Acenaphthene	83-32-9	0.059	3.4
Anthracene	120-12-7	0.059	3.4
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k) fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b) fluoranthene)	207-08-9	0.11	6.8
Benzo(a)pyrene	50-32-8	0.061	3.4
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
2-4-Dimethyl phenol	105-67-9	0.036	14
Fluorene	86-73-7	0.059	3.4
Hexachlorodibenzo-p-dioxins	NA	0.000063 or CMBST[11]	0.001 or CMBST[11]
Hexachlorodibenzofurans	NA	0.000063 or CMBST[11]	0.001 or CMBST[11]
Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
Naphthalene	91-20-3	0.059	5.6
Pentachlorodibenzo-p-dioxins	NA	0.000063 or CMBST[11]	0.001 or CMBST[11]
Pentachlorodibenzofurans	NA	0.000035 or CMBST[11]	0.001 or CMBST[11]
Pentachlorophenol	87-86-5	0.089	7.4
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
Pyrene	129-00-0	0.067	8.2
Tetrachlorodibenzo-p-dioxins	NA	0.000063 or CMBST[11]	0.001 or CMBST[11]
Tetrachlorodibenzofurans	NA	0.000063 or CMBST[11]	0.001 or CMBST[11]
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP

F034

Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol.

Acenaphthene	83-32-9	0.059	3.4
Anthracene	120-12-7	0.059	3.4
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Benzo(a)pyrene	50-32-8	0.061	3.4
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Fluorene	86-73-7	0.059	3.4
Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Pyrene	129-00-0	0.067	8.2
Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP

F035

Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes that are generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP

F037

Petroleum refinery primary oil/water/solids separation sludge – Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: oil/water/solids separators; tanks, and impoundments; ditches, and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in 35 Ill. Adm. Code 721.131(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing.

Acenaphthene	83-32-9	0.059	NA
Anthracene	120-12-7	0.059	3.4
Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Chrysene	218-01-9	0.059	3.4
Di-n-butyl phthalate	84-74-2	0.057	28
Ethylbenzene	100-41-4	0.057	10
Fluorene	86-73-7	0.059	NA
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
Pyrene	129-00-0	0.067	8.2
Toluene	108-88-3	0.080	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Lead	7439-92-1	0.69	NA
Nickel	7440-02-0	NA	11 mg/ℓ TCLP

F038

Petroleum refinery secondary (emulsified) oil/water/solids separation sludge or float generated from the physical or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: induced air floatation (IAF) units, tanks, and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges, and floats generated in aggressive biological treatment units as defined in 35 Ill. Adm. Code 721.131(b)(2) (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological units) and F037, K048, and K051 are not included in this listing.

Benzene	71-43-2	0.14	10
Benzo(a)pyrene	50-32-8	0.061	3.4
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Chrysene	218-01-9	0.059	3.4
Di-n-butyl phthalate	84-74-2	0.057	28
Ethylbenzene	100-41-4	0.057	10
Fluorene	86-73-7	0.059	NA
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
Pyrene	129-00-0	0.067	8.2
Toluene	108-88-3	0.080	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Lead	7439-92-1	0.69	NA
Nickel	7440-02-0	NA	11 mg/ℓ TCLP

F039

Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under Subpart D of this Part. (Leachate resulting from the disposal of one or more of the following USEPA hazardous wastes and no other hazardous wastes retains its USEPA hazardous waste numbers: F020, F021, F022, F026, F027, or F028.).

Acenaphthylene	208-96-8	0.059	3.4
Acenaphthene	83-32-9	0.059	3.4
Acetone	67-64-1	0.28	160
Acetonitrile	75-05-8	5.6	NA
Acetophenone	96-86-2	0.010	9.7
2-Acetylaminofluorene	53-96-3	0.059	140
Acrolein	107-02-8	0.29	NA
Acrylonitrile	107-13-1	0.24	84
Aldrin	309-00-2	0.021	0.066
4-Aminobiphenyl	92-67-1	0.13	NA
Aniline	62-53-3	0.81	14
o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
Anthracene	120-12-7	0.059	3.4
Aramite	140-57-8	0.36	NA
α-BHC	319-84-6	0.00014	0.066
β-BHC	319-85-7	0.00014	0.066
δ-BHC	319-86-8	0.023	0.066
γ-BHC	58-89-9	0.0017	0.066
Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
Benzo(a)pyrene	50-32-8	0.061	3.4
Bromodichloromethane	75-27-4	0.35	15
Methyl bromide (Bromomethane)	74-83-9	0.11	15
4-Bromophenyl phenyl ether	101-55-3	0.055	15
n-Butyl alcohol	71-36-3	5.6	2.6
Butyl benzyl phthalate	85-68-7	0.017	28
2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	88-85-7	0.066	2.5
Carbon disulfide	75-15-0	3.8	NA
Carbon tetrachloride	56-23-5	0.057	6.0
Chlordane (α and χ isomers)	57-74-9	0.0033	0.26

p-Chloroaniline	106-47-8	0.46	16
Chlorobenzene	108-90-7	0.057	6.0
Chlorobenzilate	510-15-6	0.10	NA
2-Chloro-1,3-butadiene	126-99-8	0.057	NA
Chlorodibromomethane	124-48-1	0.057	15
Chloroethane	75-00-3	0.27	6.0
bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2
bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
Chloroform	67-66-3	0.046	6.0
bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
p-Chloro-m-cresol	59-50-7	0.018	14
Chloromethane (Methyl chloride)	74-87-3	0.19	30
2-Chloronaphthalene	91-58-7	0.055	5.6
2-Chlorophenol	95-57-8	0.044	5.7
3-Chloropropylene	107-05-1	0.036	30
Chrysene	218-01-9	0.059	3.4
p-Cresidine	120-71-8	0.010	0.66
o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
Cyclohexanone	108-94-1	0.36	NA
1,2-Dibromo-3-chloropropane	96-12-8	0.11	15
Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15
Dibromomethane	74-95-3	0.11	15
2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	0.72	10
o,p'-DDD	53-19-0	0.023	0.087
p,p'-DDD	72-54-8	0.023	0.087
o,p'-DDE	3424-82-6	0.031	0.087
p,p'-DDE	72-55-9	0.031	0.087
o,p'-DDT	789-02-6	0.0039	0.087
p,p'-DDT	50-29-3	0.0039	0.087
Dibenz(a,h)anthracene	53-70-3	0.055	8.2

Dibenz(a,e)pyrene	192-65-4	0.061	NA
m-Dichlorobenzene	541-73-1	0.036	6.0
o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Dichlorodifluoromethane	75-71-8	0.23	7.2
1,1-Dichloroethane	75-34-3	0.059	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
1,1-Dichloroethylene	75-35-4	0.025	6.0
trans-1,2-Dichloroethylene	156-60-5	0.054	30
2,4-Dichlorophenol	120-83-2	0.044	14
2,6-Dichlorophenol	87-65-0	0.044	14
1,2-Dichloropropane	78-87-5	0.85	18
cis-1,3-Dichloropropylene	10061-01-5	0.036	18
trans-1,3-Dichloropropylene	10061-02-6	0.036	18
Dieldrin	60-57-1	0.017	0.13
2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66
Diethyl phthalate	84-66-2	0.20	28
2-4-Dimethyl phenol	105-67-9	0.036	14
Dimethyl phthalate	131-11-3	0.047	28
Di-n-butyl phthalate	84-74-2	0.057	28
1,4-Dinitrobenzene	100-25-4	0.32	2.3
4,6-Dinitro-o-cresol	534-52-1	0.28	160
2,4-Dinitrophenol	51-28-5	0.12	160
2,4-Dinitrotoluene	121-14-2	0.32	140
2,6-Dinitrotoluene	606-20-2	0.55	28
Di-n-octyl phthalate	117-84-0	0.017	28
Di-n-propylnitrosamine	621-64-7	0.40	14
1,4-Dioxane	123-91-1	12.0	170
Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	NA
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	NA
1,2-Diphenylhydrazine	122-66-7	0.087	NA
Disulfoton	298-04-4	0.017	6.2
Endosulfan I	939-98-8	0.023	0.066
Endosulfan II	33213-6-5	0.029	0.13

Endosulfan sulfate	1031-07-8	0.029	0.13
Endrin	72-20-8	0.0028	0.13
Endrin aldehyde	7421-93-4	0.025	0.13
Ethyl acetate	141-78-6	0.34	33
Ethyl cyanide (Propanenitrile)	107-12-0	0.24	360
Ethyl benzene	100-41-4	0.057	10
Ethyl ether	60-29-7	0.12	160
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Ethyl methacrylate	97-63-2	0.14	160
Ethylene oxide	75-21-8	0.12	NA
Famphur	52-85-7	0.017	15
Fluoranthene	206-44-0	0.068	3.4
Fluorene	86-73-7	0.059	3.4
Heptachlor	76-44-8	0.0012	0.066
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025
Heptachlor epoxide	1024-57-3	0.016	0.066
Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachlorocyclopentadiene	77-47-4	0.057	2.4
HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063	0.001
Hexachloroethane	67-72-1	0.055	30
Hexachloropropylene	1888-71-7	0.035	30
Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
Iodomethane	74-88-4	0.19	65
Isobutyl alcohol	78-83-1	5.6	170
Isodrin	465-73-6	0.021	0.066
Isosafrole	120-58-1	0.081	2.6
Kepone	143-50-8	0.0011	0.13

Methacrylonitrile	126-98-7	0.24	84
Methanol	67-56-1	5.6	NA
Methapyrilene	91-80-5	0.081	1.5
Methoxychlor	72-43-5	0.25	0.18
3-Methylcholanthrene	56-49-5	0.0055	15
4,4-Methylene bis(2-chloroaniline)	101-14-4	0.50	30
Methylene chloride	75-09-2	0.089	30
Methyl ethyl ketone	78-93-3	0.28	36
Methyl isobutyl ketone	108-10-1	0.14	33
Methyl methacrylate	80-62-6	0.14	160
Methyl methansulfonate	66-27-3	0.018	NA
Methyl parathion	298-00-0	0.014	4.6
Naphthalene	91-20-3	0.059	5.6
2-Naphthylamine	91-59-8	0.52	NA
p-Nitroaniline	100-01-6	0.028	28
Nitrobenzene	98-95-3	0.068	14
5-Nitro-o-toluidine	99-55-8	0.32	28
p-Nitrophenol	100-02-7	0.12	29
N-Nitrosodiethylamine	55-18-5	0.40	28
N-Nitrosodimethylamine	62-75-9	0.40	NA
N-Nitroso-di-n-butylamine	924-16-3	0.40	17
N-Nitrosomethylethylamine	10595-95-6	0.40	2.3
N-Nitrosomorpholine	59-89-2	0.40	2.3
N-Nitrosopiperidine	100-75-4	0.013	35
N-Nitrosopyrrolidine	930-55-2	0.013	35
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (1,2,3,4,6,7,8,9-OCDD)	3268-87-9	0.000063	0.0025
Parathion	56-38-2	0.014	4.6
Total PCBs (sum of all PCB isomers, or all Aroclors)	1336-36-3	0.10	10
Pentachlorobenzene	608-93-5	0.055	10
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035	0.001
Pentachloronitrobenzene	82-68-8	0.055	4.8

Pentachlorophenol	87-86-5	0.089	7.4
Phenacetin	62-44-2	0.081	16
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
1,3-Phenylenediamine	108-45-2	0.010	0.66
Phorate	298-02-2	0.021	4.6
Phthalic anhydride	85-44-9	0.055	NA
Pronamide	23950-58-5	0.093	1.5
Pyrene	129-00-0	0.067	8.2
Pyridine	110-86-1	0.014	16
Safrole	94-59-7	0.081	22
Silvex (2,4,5-TP)	93-72-1	0.72	7.9
2,4,5-T	93-76-5	0.72	7.9
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063	0.001
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
Toluene	108-88-3	0.080	10
Toxaphene	8001-35-2	0.0095	2.6
Bromoform (Tribromomethane)	75-25-2	0.63	15
1,2,4-Trichlorobenzene	120-82-1	0.055	19
1,1,1-Trichloroethane	71-55-6	0.054	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0
Trichloromonofluoromethane	75-69-4	0.020	30
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
1,2,3-Trichloropropane	96-18-4	0.85	30
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
tris(2,3-Dibromopropyl) phosphate	126-72-7	0.11	NA
Vinyl chloride	75-01-4	0.27	6.0

Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Antimony	7440-36-0	1.9	1.15 mg/ℓ TCLP
Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP
Barium	7440-39-3	1.2	21 mg/ℓ TCLP
Beryllium	7440-41-7	0.82	NA
Cadmium	7440-43-9	0.69	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	NA
Fluoride	16964-48-8	35	NA
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Mercury	7439-97-6	0.15	0.025 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Selenium	7782-49-2	0.82	5.7 mg/ℓ TCLP
Silver	7440-22-4	0.43	0.14 mg/ℓ TCLP
Sulfide	8496-25-8	14	NA
Thallium	7440-28-0	1.4	NA
Vanadium	7440-62-2	4.3	NA

K001

Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote or pentachlorophenol.

Naphthalene	91-20-3	0.059	5.6
Pentachlorophenol	87-86-5	0.089	7.4
Phenanthrene	85-01-8	0.059	5.6
Pyrene	129-00-0	0.067	8.2
Toluene	108-88-3	0.080	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K002

Wastewater treatment sludge from the production of chrome yellow and orange pigments.

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K003

Wastewater treatment sludge from the production of molybdate orange pigments.

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K004

Wastewater treatment sludge from the production of zinc yellow pigments.

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K005

Wastewater treatment sludge from the production of chrome green pigments.

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590

K006

Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous).

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K006

Wastewater treatment sludge from the production of chrome oxide green pigments (hydrated).

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	NA

K007

Wastewater treatment sludge from the production of iron blue pigments.

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590

K008

Oven residue from the production of chrome oxide green pigments.

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K009

Distillation bottoms from the production of acetaldehyde from ethylene.

Chloroform	67-66-3	0.046	6.0

K010

Distillation side cuts from the production of acetaldehyde from ethylene.

Chloroform	67-66-3	0.046	6.0

K011

Bottom stream from the wastewater stripper in the production of acrylonitrile.

Acetonitrile	75-05-8	5.6	38
Acrylonitrile	107-13-1	0.24	84
Acrylamide	79-06-1	19	23
Benzene	71-43-2	0.14	10
Cyanide (Total)	57-12-5	1.2	590

K013

Bottom stream from the acetonitrile column in the production of acrylonitrile.

Acetonitrile	75-05-8	5.6	38
Acrylonitrile	107-13-1	0.24	84
Acrylamide	79-06-1	19	23
Benzene	71-43-2	0.14	10
Cyanide (Total)	57-12-5	1.2	590

K014

Bottoms from the acetonitrile purification column in the production of acrylonitrile.

Acetonitrile	75-05-8	5.6	38
Acrylonitrile	107-13-1	0.24	84
Acrylamide	79-06-1	19	23
Benzene	71-43-2	0.14	10
Cyanide (Total)	57-12-5	1.2	590

K015

Still bottoms from the distillation of benzyl chloride.

Anthracene	120-12-7	0.059	3.4
Benzal chloride	98-87-3	0.055	6.0
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Phenanthrene	85-01-8	0.059	5.6
Toluene	108-88-3	0.080	10
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP

K016

Heavy ends or distillation residues from the production of carbon tetrachloride.

Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachlorocyclopentadiene	77-47-4	0.057	2.4
Hexachloroethane	67-72-1	0.055	30
Tetrachloroethylene	127-18-4	0.056	6.0

K017

Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.

bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
1,2-Dichloropropane	78-87-5	0.85	18
1,2,3-Trichloropropane	96-18-4	0.85	30

K018

Heavy ends from the fractionation column in ethyl chloride production.

Chloroethane	75-00-3	0.27	6.0
Chloromethane	74-87-3	0.19	NA
1,1-Dichloroethane	75-34-3	0.059	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachloroethane	67-72-1	0.055	30
Pentachloroethane	76-01-7	NA	6.0
1,1,1-Trichloroethane	71-55-6	0.054	6.0

K019

Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production.

bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
Chlorobenzene	108-90-7	0.057	6.0
Chloroform	67-66-3	0.046	6.0
p-Dichlorobenzene	106-46-7	0.090	NA
1,2-Dichloroethane	107-06-2	0.21	6.0
Fluorene	86-73-7	0.059	NA

Hexachloroethane	67-72-1	0.055	30
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	NA
Tetrachloroethylene	127-18-4	0.056	6.0
1,2,4-Trichlorobenzene	120-82-1	0.055	19
1,1,1-Trichloroethane	71-55-6	0.054	6.0

K020

Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.

1,2-Dichloroethane	107-06-2	0.21	6.0
1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0

K021

Aqueous spent antimony catalyst waste from fluoromethanes production.

Carbon tetrachloride	56-23-5	0.057	6.0
Chloroform	67-66-3	0.046	6.0
Antimony	7440-36-0	1.9	1.15 mg/ℓ TCLP

K022

Distillation bottom tars from the production of phenol or acetone from cumene.

Toluene	108-88-3	0.080	10
Acetophenone	96-86-2	0.010	9.7
Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	13
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	13
Phenol	108-95-2	0.039	6.2
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP

K023

Distillation light ends from the production of phthalic anhydride from naphthalene.

Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28

K024

Distillation bottoms from the production of phthalic anhydride from naphthalene.

Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28

K025

Distillation bottoms from the production of nitrobenzene by the nitration of benzene.

NA	NA	LLEXT fb SSTRP fb CARBN; or CMBST	CMBST

K026

Stripping still tails from the production of methyl ethyl pyridines.

NA	NA	CMBST	CMBST

K027

Centrifuge and distillation residues from toluene diisocyanate production.

NA	NA	CARBN; or CMBST	CMBST

K028

Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.

1,1-Dichloroethane	75-34-3	0.059	6.0
trans-1,2-Dichloroethylene	156-60-5	0.054	30
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachloroethane	67-72-1	0.055	30
Pentachloroethane	76-01-7	NA	6.0
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
1,1,1-Trichloroethane	71-55-6	0.054	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Cadmium	7440-43-9	0.69	NA
Chromium(Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP

K029

Waste from the product steam stripper in the production of 1,1,1-trichloroethane.

Chloroform	67-66-3	0.046	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
1,1-Dichloroethylene	75-35-4	0.025	6.0
1,1,1-Trichloroethane	71-55-6	0.054	6.0
Vinyl chloride	75-01-4	0.27	6.0

K030

Column bodies or heavy ends from the combined production of trichloroethylene and perchloroethylene.

o-Dichlorobenzene	95-50-1	0.088	NA
p-Dichlorobenzene	106-46-7	0.090	NA
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachloroethane	67-72-1	0.055	30
Hexachloropropylene	1888-71-7	NA	30
Pentachlorobenzene	608-93-5	NA	10
Pentachloroethane	76-01-7	NA	6.0
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
Tetrachloroethylene	127-18-4	0.056	6.0
1,2,4-Trichlorobenzene	120-82-1	0.055	19

K031

By-product salts generated in the production of MSMA and cacodylic acid.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

K032

Wastewater treatment sludge from the production of chlordane.

Hexachlorocyclopentadiene	77-47-4	0.057	2.4
Chlordane (α and γ isomers)	57-74-9	0.0033	0.26
Heptachlor	76-44-8	0.0012	0.066
Heptachlor epoxide	1024-57-3	0.016	0.066

K033

Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane.

Hexachlorocyclopentadiene	77-47-4	0.057	2.4

K034

Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane.

Hexachlorocyclopentadiene	77-47-4	0.057	2.4

POLLUTION CONTROL BOARD

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K035

Wastewater treatment sludges generated in the production of creosote.

Acenaphthene	83-32-9	NA	3.4
Anthracene	120-12-7	NA	3.4
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4
Chrysene	218-01-9	0.059	3.4
o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
Dibenz(a,h)anthracene	53-70-3	NA	8.2
Fluoranthene	206-44-0	0.068	3.4
Fluorene	86-73-7	NA	3.4
Indeno(1,2,3-cd)pyrene	193-39-5	NA	3.4
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
Pyrene	129-00-0	0.067	8.2

K036

Still bottoms from toluene reclamation distillation in the production of disulfoton.

Disulfoton	298-04-4	0.017	6.2

K037

Wastewater treatment sludges from the production of disulfoton.

Disulfoton	298-04-4	0.017	6.2
Toluene	108-88-3	0.080	10

K038

Wastewater from the washing and stripping of phorate production.

Phorate	298-02-2	0.021	4.6

K039

Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate.

NA	NA	CARBN; or CMBST	CMBST

K040

Wastewater treatment sludge from the production of phorate.

Phorate	298-02-2	0.021	4.6

K041

Wastewater treatment sludge from the production of toxaphene.

Toxaphene	8001-35-2	0.0095	2.6

K042

Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T.

o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Pentachlorobenzene	608-93-5	0.055	10
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
1,2,4-Trichlorobenzene	120-82-1	0.055	19

K043

2,6-Dichlorophenol waste from the production of 2,4-D.

2,4-Dichlorophenol	120-83-2	0.044	14
2,6-Dichlorophenol	187-65-0	0.044	14
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
Pentachlorophenol	87-86-5	0.089	7.4
Tetrachloroethylene	127-18-4	0.056	6.0
HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063	0.001
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035	0.001
TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063	0.001

K044

Wastewater treatment sludges from the manufacturing and processing of explosives.

NA	NA	DEACT	DEACT

K045

Spent carbon from the treatment of wastewater containing explosives.

NA	NA	DEACT	DEACT

K046

Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.

Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K047

Pink or red water from TNT operations.

NA	NA	DEACT	DEACT

K048

Dissolved air flotation (DAF) float from the petroleum refining industry.

Benzene	71-43-2	0.14	10
Benzo(a)pyrene	50-32-8	0.061	3.4
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Chrysene	218-01-9	0.059	3.4
Di-n-butyl phthalate	84-74-2	0.057	28
Ethylbenzene	100-41-4	0.057	10
Fluorene	86-73-7	0.059	NA
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
Pyrene	129-00-0	0.067	8.2
Toluene	108-88-33	0.080	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Lead	7439-92-1	0.69	NA
Nickel	7440-02-0	NA	11 mg/ℓ TCLP

K049

Slop oil emulsion solids from the petroleum refining industry.

Anthracene	120-12-7	0.059	3.4
Benzene	71-43-2	0.14	10
Benzo(a)pyrene	50-32-8	0.061	3.4
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Carbon disulfide	75-15-0	3.8	NA

Chrysene	2218-01-9	0.059	3.4
2,4-Dimethylphenol	105-67-9	0.036	NA
Ethylbenzene	100-41-4	0.057	10
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
Pyrene	129-00-0	0.067	8.2
Toluene	108-88-3	0.080	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Cyanides (Total)[7]	57-12-5	1.2	590
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	NA
Nickel	7440-02-0	NA	11 mg/ℓ TCLP

K050

Heat exchanger bundle cleaning sludge from the petroleum refining industry.

Benzo(a)pyrene	50-32-8	0.061	3.4
Phenol	108-95-2	0.039	6.2
Cyanides (Total)[7]	57-12-5	1.2	590
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	NA
Nickel	7440-02-0	NA	11 mg/ℓ TCLP

K051

API separator sludge from the petroleum refining industry.

Acenaphthene	83-32-9	0.059	NA
Anthracene	120-12-7	0.059	3.4
Benz(a)anthracene	56-55-3	0.059	3.4
Benzene	71-43-2	0.14	10
Benzo(a)pyrene	50-32-8	0.061	3.4
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Chrysene	2218-01-9	0.059	3.4
Di-n-butyl phthalate	105-67-9	0.057	28

Ethylbenzene	100-41-4	0.057	10
Fluorene	86-73-7	0.059	NA
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
Pyrene	129-00-0	0.067	8.2
Toluene	108-88-3	0.08	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Cyanides (Total)[7]	57-12-5	1.2	590
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	NA
Nickel	7440-02-0	NA	11 mg/ℓ TCLP

K052

Tank bottoms (leaded) from the petroleum refining industry.

Benzene	71-43-2	0.14	10
Benzo(a)pyrene	50-32-8	0.061	3.4
o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
2,4-Dimethylphenol	105-67-9	0.036	NA
Ethylbenzene	100-41-4	0.057	10
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
Toluene	108-88-3	0.08	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590

Lead	7439-92-1	0.69	NA
Nickel	7440-02-0	NA	11 mg/ℓ TCLP

K060

Ammonia still lime sludge from coking operations.

Benzene	71-43-2	0.14	10
Benzo(a)pyrene	50-32-8	0.061	3.4
Naphthalene	91-20-3	0.059	5.6
Phenol	108-95-2	0.039	6.2
Cyanides (Total)[7]	57-12-5	1.2	590

K061

Emission control dust or sludge from the primary production of steel in electric furnaces.

Antimony	7440-36-0	NA	1.15 mg/ℓ TCLP
Arsenic	7440-38-2	NA	5.0 mg/ℓ TCLP
Barium	7440-39-3	NA	21 mg/ℓ TCLP
Beryllium	7440-41-7	NA	1.22 mg/ℓ TCLP
Cadmium	7440-43-9	0.69	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Mercury	7439-97-6	NA	0.025 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Selenium	7782-49-2	NA	5.7 mg/ℓ TCLP
Silver	7440-22-4	NA	0.14 mg/ℓ TCLP
Thallium	7440-28-0	NA	0.20 mg/ℓ TCLP
Zinc	7440-66-6	NA	4.3 mg/ℓ TCLP

K062

Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Nickel	7440-02-0	3.98	NA

K069

Emission control dust or sludge from secondary lead smelting-Calcium sulfate (Low Lead) Subcategory.

Cadmium	7440-43-9	0.69	0.11 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K069

Emission control dust or sludge from secondary lead smelting-Non-Calcium sulfate (High Lead) Subcategory.

NA	NA	NA	RLEAD

K071

K071 (Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used) nonwastewaters that are residues from RMERC.

Mercury	7439-97-6	NA	0.20 mg/ℓ TCLP

K071

K071 (Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used) nonwastewaters that are not residues from RMERC.

Mercury	7439-97-6	NA	0.025 mg/ℓ TCLP

K071

All K071 wastewaters.

Mercury	7439-97-6	0.15	NA

K073

Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production.

Carbon tetrachloride	56-23-5	0.057	6.0
Chloroform	67-66-3	0.046	6.0
Hexachloroethane	67-72-1	0.055	30
Tetrachloroethylene	127-18-4	0.056	6.0
1,1,1-Trichloroethane	71-55-6	0.054	6.0

K083

Distillation bottoms from aniline production.

Aniline	62-53-3	0.81	14
Benzene	71-43-2	0.14	10
Cyclohexanone	108-94-1	0.36	NA
Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	13
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	13
Nitrobenzene	98-95-3	0.068	14
Phenol	108-95-2	0.039	6.2
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP

K084

Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

K085

Distillation or fractionation column bottoms from the production of chlorobenzenes.

Benzene	71-43-2	0.14	10
Chlorobenzene	108-90-7	0.057	6.0

m-Dichlorobenzene	541-73-1	0.036	6.0
o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Hexachlorobenzene	118-74-1	0.055	10
Total PCBs (sum of all PCB isomers, or all Aroclors)	1336-36-3	0.10	10
Pentachlorobenzene	608-93-5	0.055	10
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
1,2,4-Trichlorobenzene	120-82-1	0.055	19

K086

Solvent wastes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.

Acetone	67-64-1	0.28	160
Acetophenone	96-86-2	0.010	9.7
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
n-Butyl alcohol	71-36-3	5.6	2.6
Butylbenzyl phthalate	85-68-7	0.017	28
Cyclohexanone	108-94-1	0.36	NA
o-Dichlorobenzene	95-50-1	0.088	6.0
Diethyl phthalate	84-66-2	0.20	28
Dimethyl phthalate	131-11-3	0.047	28
Di-n-butyl phthalate	84-74-2	0.057	28
Di-n-octyl phthalate	117-84-0	0.017	28
Ethyl acetate	141-78-6	0.34	33
Ethylbenzene	100-41-4	0.057	10
Methanol	67-56-1	5.6	NA
Methyl ethyl ketone	78-93-3	0.28	36
Methyl isobutyl ketone	108-10-1	0.14	33
Methylene chloride	75-09-2	0.089	30
Naphthalene	91-20-3	0.059	5.6
Nitrobenzene	98-95-3	0.068	14
Toluene	108-88-3	0.080	10
1,1,1-Trichloroethane	71-55-6	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0

Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K087

Decanter tank tar sludge from coking operations.

Acenaphthylene	208-96-8	0.059	3.4
Benzene	71-43-2	0.14	10
Chrysene	218-01-9	0.059	3.4
Fluoranthene	206-44-0	0.068	3.4
Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	85-01-8	0.059	5.6
Toluene	108-88-3	0.080	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K088

Spent potliners from primary aluminum reduction.

Acenaphthene	83-32-9	0.059	3.4
Anthracene	120-12-7	0.059	3.4
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4
Benzo(b)fluoranthene	205-99-2	0.11	6.8
Benzo(k)fluoranthene	207-08-9	0.11	6.8
Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Fluoranthene	206-44-0	0.068	3.4

Indeno(1, 2, 3-cd)pyrene	193-39-5	0.0055	3.4
~~Indeno(1,2,3-c,d)pyrene~~			
Phenanthrene	85-01-8	0.059	5.6
Pyrene	129-00-0	0.067	8.2
Antimony	7440-36-0	1.9	1.15 mg/ℓ TCLP
Arsenic	7440-38-2	1.4	26.1 mg/ℓ
Barium	7440-39-3	1.2	21 mg/ℓ TCLP
Beryllium	7440-41-7	0.82	1.22 mg/ℓ TCLP
Cadmium	7440-43-9	0.69	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Mercury	7439-97-6	0.15	0.025 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Selenium	7782-49-2	0.82	5.7 mg/ℓ TCLP
Silver	7440-22-4	0.43	0.14 mg/ℓ TCLP
Cyanide (Total)[7]	57-12-5	1.2	590
Cyanide (Amenable)[7]	57-12-5	0.86	30
Fluoride	16984-48-8	35	NA

K093

Distillation light ends from the production of phthalic anhydride from ortho-xylene.

Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28

K094

Distillation bottoms from the production of phthalic anhydride from ortho-xylene.

Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28

Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28

K095

Distillation bottoms from the production of 1,1,1-trichloroethane.

Hexachloroethane	67-72-1	0.055	30
Pentachloroethane	76-01-7	0.055	6.0
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0

K096

Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.

m-Dichlorobenzene	541-73-1	0.036	6.0
Pentachloroethane	76-01-7	0.055	6.0
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-6	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
1,2,4-Trichlorobenzene	120-82-1	0.055	19
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0

K097

Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane.

Chlordane (α and χ isomers)	57-74-9	0.0033	0.26
Heptachlor	76-44-8	0.0012	0.066
Heptachlor epoxide	1024-57-3	0.016	0.066
Hexachlorocyclopentadiene	77-47-4	0.057	2.4

K098

Untreated process wastewater from the production of toxaphene.

Toxaphene	8001-35-2	0.0095	2.6

K099

Untreated wastewater from the production of 2,4-D.

2,4-Dichlorophenoxyacetic acid	94-75-7	0.72	10
HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063	0.001
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035	0.001
TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063	0.001

K100

Waste leaching solution from acid leaching of emission control dust or sludge from secondary lead smelting.

Cadmium	7440-43-9	0.69	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K101

Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

o-Nitroaniline	88-74-4	0.27	14
Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

Cadmium	7440-43-9	0.69	NA
Lead	7439-92-1	0.69	NA
Mercury	7439-97-6	0.15	NA

K102

Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

o-Nitrophenol	88-75-5	0.028	13
Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP
Cadmium	7440-43-9	0.69	NA
Lead	7439-92-1	0.69	NA
Mercury	7439-97-6	0.15	NA

K103

Process residues from aniline extraction from the production of aniline.

Aniline	62-53-3	0.81	14
Benzene	71-43-2	0.14	10
2,4-Dinitrophenol	51-28-5	0.12	160
Nitrobenzene	98-95-3	0.068	14
Phenol	108-95-2	0.039	6.2

K104

Combined wastewater streams generated from nitrobenzene or aniline production.

Aniline	62-53-3	0.81	14
Benzene	71-43-2	0.14	10
2,4-Dinitrophenol	51-28-5	0.12	160
Nitrobenzene	98-95-3	0.068	14
Phenol	108-95-2	0.039	6.2
Cyanides (Total)[7]	57-12-5	1.2	590

K105

Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes.

Benzene	71-43-2	0.14	10
Chlorobenzene	108-90-7	0.057	6.0
2-Chlorophenol	95-57-8	0.044	5.7
o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Phenol	108-95-2	0.039	6.2
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4

K106

K106 (wastewater treatment sludge from the mercury cell process in chlorine production) nonwastewaters that contain greater than or equal to 260 mg/kg total mercury.

Mercury	7439-97-6	NA	RMERC

K106

K106 (wastewater treatment sludge from the mercury cell process in chlorine production) nonwastewaters that contain less than 260 mg/kg total mercury that are residues from RMERC.

Mercury	7439-97-6	NA	0.20 mg/ℓ TCLP

K106

Other K106 nonwastewaters that contain less than 260 mg/kg total mercury and are not residues from RMERC.

Mercury	7439-97-6	NA	0.025 mg/ℓ TCLP

K106

All K106 wastewaters.

Mercury	7439-97-6	0.15	NA

K107

Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.

NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST

K108

Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.

NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST

K109

Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.

NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST

K110

Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.

NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST

K111

Product washwaters from the production of dinitrotoluene via nitration of toluene.

2,4-Dinitrotoluene	121-14-2 ~~121-1-1~~	0.32	140
2,6-Dinitrotoluene	606-20-2	0.55	28

K112

Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.

NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST

K113

Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.

NA	NA	CARBN; or CMBST	CMBST

K114

Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.

NA	NA	CARBN; or CMBST	CMBST

K115

Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.

Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
NA	NA	CARBN; or CMBST	CMBST

K116

Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.

NA	NA	CARBN; or CMBST	CMBST

K117

Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene.

Methyl bromide (Bromomethane)	74-83-9	0.11	15
Chloroform	67-66-3	0.046	6.0
Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15

K118

Spent absorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.

Methyl bromide (Bromomethane)	74-83-9	0.11	15
Chloroform	67-66-3	0.046	6.0

Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15

K123

Process wastewater (including supernates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salts.

NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST

K124

Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts.

NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST

K125

Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts.

NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST

K126

Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts.

NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST

K131

Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide.

Methyl bromide (Bromomethane)	74-83-9	0.11	15

K132

Spent absorbent and wastewater separator solids from the production of methyl bromide.

Methyl bromide (Bromomethane)	74-83-9	0.11	15

K136

Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.

Methyl bromide (Bromomethane)	74-83-9	0.11	15
Chloroform	67-66-3	0.046	6.0
Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15

K141

Process residues from the recovery of coal tar, including, but not limited to, collecting sump residues from the production of coke or the recovery of coke by-products produced from coal. This listing does not include K087 (decanter tank tar sludge from coking operations).

Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4

Benzo(a)pyrene	50-2-8	0.061	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4

K142

Tar storage tank residues from the production of coke from coal or from the recovery of coke by-products produced from coal.

Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4

K143

Process residues from the recovery of light oil, including, but not limited to, those generated in stills, decanters, and wash oil recovery units from the recovery of coke by-products produced from coal.

Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4

Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Chrysene	218-01-9	0.059	3.4

K144

Wastewater sump residues from light oil refining, including, but not limited to, intercepting or contamination sump sludges from the recovery of coke by-products produced from coal.

Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2

K145

Residues from naphthalene collection and recovery operations from the recovery of coke by-products produced from coal.

Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Naphthalene	91-20-3	0.059	5.6

K147

Tar storage tank residues from coal tar refining.

Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4

K148

Residues from coal tar distillation, including, but not limited to, still bottoms.

Benz(a)anthracene	56-55-3	0.059	3.4
Benzo(a)pyrene	50-32-8	0.061	3.4
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4

K149

Distillation bottoms from the production of α- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillations of benzyl chloride.)

Chlorobenzene	108-90-7	0.057	6.0
Chloroform	67-66-3	0.046	6.0

Chloromethane	74-87-3	0.19	30
p-Dichlorobenzene	106-46-7	0.090	6.0
Hexachlorobenzene	118-74-1	0.055	10
Pentachlorobenzene	608-93-5	0.055	10
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
Toluene	108-88-3	0.080	10

K150

Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of α- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.

Carbon tetrachloride	56-23-5	0.057	6.0
Chloroform	67-66-3	0.046	6.0
Chloromethane	74-87-3	0.19	30
p-Dichlorobenzene	106-46-7	0.090	6.0
Hexachlorobenzene	118-74-1	0.055	10
Pentachlorobenzene	608-93-5	0.055	10
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
1,1,2,2- Tetrachloroethane	79-34-5	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
1,2,4-Trichlorobenzene	120-82-1	0.055	19

K151

Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of α- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.

Benzene	71-43-2	0.14	10
Carbon tetrachloride	56-23-5	0.057	6.0
Chloroform	67-66-3	0.046	6.0
Hexachlorobenzene	118-74-1	0.055	10
Pentachlorobenzene	608-93-5	0.055	10
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
Tetrachloroethylene	127-18-4	0.056	6.0

Toluene	108-88-3	0.080	10

K156

Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes.[10]

Acetonitrile	75-05-8	5.6	1.8
Acetophenone	98-86-2 ~~96-86-2~~	0.010	9.7
Aniline	62-53-3	0.81	14
Benomyl	17804-35-2	0.056	1.4
Benzene	71-43-2	0.14	10
Carbaryl	63-25-21	0.006	0.14
Carbenzadim	10605-21-7	0.056	1.4
Carbofuran	1563-66-2	0.006	0.14
Carbosulfan	55285-14-8	0.028	1.4
Chlorobenzene	108-90-7	0.057	6.0
Chloroform	67-66-3	0.046	6.0
o-Dichlorobenzene	95-50-1	0.088	6.0
Methomyl	16752-77-5	0.028	0.14
Methylene chloride	75-09-2	0.089	30
Methyl ethyl ketone	78-93-3	0.28	36
Naphthalene	91-20-3	0.059	5.6
Phenol	108-95-2	0.039	6.2
Pyridine	110-86-1	0.014	16
Toluene	108-88-3	0.080	10
Triethylamine	121-44-8	0.081	1.5

K157

Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes.

Carbon tetrachloride	56-23-5	0.057	6.0
Chloroform	67-66-3	0.046	6.0
Chloromethane	74-87-3	0.19	30
Methomyl	16752-77-5	0.028	0.14
Methylene chloride	75-09-2	0.089	30

Methyl ethyl ketone	78-93-3	0.28	36
Pyridine	110-86-1	0.014	16
Triethylamine	121-44-8	0.081	1.5

K158

Baghouse dusts and filter/separation solids from the production of carbamates and carbamoyl oximes.

Benomyl	17804-35-2	0.056	1.4
Benzene	71-43-2	0.14	10
Carbenzadim	10605-21-7	0.056	1.4
Carbofuran	1563-66-2	0.006	0.14
Carbosulfan	55285-14-8	0.028	1.4
Chloroform	67-66-3	0.046	6.0
Methylene chloride	75-09-2	0.089	30
Phenol	108-95-2	0.039	6.2

K159

Organics from the treatment of thiocarbamate wastes.[10]

Benzene	71-43-2	0.14	10
Butylate	2008-41-5	0.042	1.4
EPTC (Eptam)	759-94-4	0.042	1.4
Molinate	2212-67-1	0.042	1.4
Pebulate	1114-71-2	0.042	1.4
Vernolate	1929-77-7	0.042	1.4

K161

Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings from the production of dithiocarbamate acids and their salts.

Antimony	7440-36-0	1.9	1.15[11]
Arsenic	7440-38-2	1.4	5.0[11]
Carbon disulfide	75-15-0	3.8	4.8[11]
Dithiocarbamates (total)	137-30-4	0.028	28
Lead	7439-92-1	0.69	0.75[11]

Nickel	7440-02-0	3.98	11[11]
Selenium	7782-49-2	0.82	5.7[11]

K169

Crude oil tank sediment from petroleum refining operations.

Benz(a)anthracene	56-55-3	0.059	3.4
Benzene	71-43-2	0.14	10
Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
Chrysene	218-01-9	0.059	3.4
Ethyl benzene	100-41-4	0.057	10
Fluorene	86-73-7	0.059	3.4
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	81-05-8	0.059	5.6
Pyrene	129-00-0	0.067	8.2
Toluene (Methyl Benzene)	108-88-3	0.080	10
Xylenes (Total)	1330-20-7	0.32	30

K170

Clarified slurry oil sediment from petroleum refining operations.

Benz(a)anthracene	56-55-3	0.059	3.4
Benzene	71-43-2	0.14	10
Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
Chrysene	218-01-9	0.059	3.4
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Ethyl benzene	100-41-4	0.057	10
Fluorene	86-73-7	0.059	3.4
Indeno(1,2,3,-cd)pyrene	193-39-5	0.0055	3.4
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	81-05-8	0.059	5.6
Pyrene	129-00-0	0.067	8.2
Toluene (Methyl Benzene)	108-88-3	0.080	10
Xylenes (Total	1330-20-7	0.32	30

K171

Spent hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors. (This listing does not include inert support media.)

Benz(a)anthracene	56-55-3	0.059	3.4
Benzene	71-43-2	0.14	10
Chrysene	218-01-9	0.059	3.4
Ethyl benzene	100-41-4	0.057	10
Naphthalene	91-20-3	0.059	5.6
Phenanthrene	81-05-8	0.059	5.6
Pyrene	129-00-0	0.067	8.2
Toluene (Methyl Benzene)	108-88-3	0.080	10
Xylenes (Total)	1330-20-7	0.32	30
Arsenic	7740-38-2	1.4	5 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11.0 mg/ℓ TCLP
Vanadium	7440-62-2	4.3	1.6 mg/ℓ TCLP
Reactive sulfides	NA	DEACT	DEACT

K172

Spent hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors. (This listing does not include inert support media.)

Benzene	71-43-2	0.14	10
Ethyl benzene	100-41-4	0.057	10
Toluene (Methyl Benzene)	108-88-3	0.080	10
Xylenes (Total)	1330-20-7	0.32	30
Antimony	7740-36-0	1.9	1.15 mg/ℓ TCLP
Arsenic	7740-38-2	1.4	5 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11.0 mg/ℓ TCLP
Vanadium	7440-62-2	4.3	1.6 mg/ℓ TCLP
Reactive Sulfides	NA	DEACT	DEACT

K174

Wastewater treatment sludge from the production of ethylene dicholoride or vinyl choloride monomer.

1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035 or CMBST[11]	0.0025 or CMBST[11]
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035 or CMBST[11]	0.0025 or CMBST[11]
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035 or CMBST[11]	0.0025 or CMBST[11]
All hexachlorodibenzo-p-dioxins (HxCDDs)	34465-46-8	0.000063 or CMBST[11]	0.001 or CMBST[11]
All hexachlorodibenzofurans (HxCDFs)	55684-94-1	0.000063 or CMBST[11]	0.001 or CMBST[11]
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (1,2,3,4,6,7,8,9-OCDD)	3268-87-9	0.000063 or CMBST[11]	0.005 or CMBST[11]
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (1,2,3,4,6,7,8,9-OCDF)	39001-02-0	0.000063 or CMBST[11]	0.005 or CMBST[11]
All pentachlorodibenzo-p-dioxins (PeCDDs)	36088-22-9	0.000063 or CMBST[11]	0.001 or CMBST[11]
All pentachlorodibenzofurans (PeCDFs)	30402-15-4	0.000035 or CMBST[11]	0.001 or CMBST[11]
All tetrachlorodibenzo-p-dioxins (TCDDs)	41903-57-5	0.000063 or CMBST[11]	0.001 or CMBST[11]
All tetrachlorodibenzofurans (TCDFs)	55722-27-5	0.000063 or CMBST[11]	0.001 or CMBST[11]
Arsenic	7440-36-0	1.4	5.0 mg/ℓ TCLP

K175

Wastewater treatment sludge from the production of vinyl choloride monomer using mercuric chloride catalyst in an acetylene-based process.

Mercury[12]	7439-97-6	NA	0.025 mg/ℓ TCLP
PH[12]		NA	pH ≤ 6.0

K175

All K175 wastewaters.

Mercury	7439-97-6	0.15	NA

K176

Baghouse filters from the production of antimony oxide, including filters from the production of intermediates e.g., antimony metal or crude antimony oxide).

Antimony	7440-36-0	1.9	1.15 mg/ℓ TCLP
Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP
Cadmium	7440-43-9	0.69	0.11 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Mercury	7439-97-6	0.15	0.025 mg/ℓ TCLP

K177

Slag from the production of antimony oxide that is speculatively accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide).

Antimony	7440-36-0	1.9	1.15 mg/ℓ TCLP
Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

K178

Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process.

1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035 or CMBST[11]	0.0025 or CMBST[11]
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035 or CMBST[11]	0.0025 or CMBST[11]
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035 or CMBST[11]	0.0025 or CMBST[11]

HxCDDs (All Hexachlorodibenzo-p-dioxins)	34465-46-8	0.000063 or CMBST[11]	0.001 or CMBST[11]
HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063 or CMBST[11]	0.001 or CMBST[11]
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (1,2,3,4,6,7,8,9-OCDD)	3268-87-9	0.000063 or CMBST[11]	0.005 or CMBST[11]
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063 or CMBST[11]	0.005 or CMBST[11]
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063 or CMBST[11]	0.001 or CMBST[11]
PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035 or CMBST[11]	0.001 or CMBST[11]
TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063 or CMBST[11]	0.001 or CMBST[11]
TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063 or CMBST[11]	0.001 or CMBST[11]
Thallium	7440-28-0	1.4	0.20 mg/ℓ TCLP

K181

Nonwastewaters from the production of dyes or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in Section 721.132(c) which are equal to or greater than the corresponding Section 721.132(c) levels, as determined on a calendar-year basis.

Aniline	62-53-3	0.81	14
o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
4-Chloroaniline	106-47-8	0.46	16
p-Cresidine	120-71-8	0.010	0.66
2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66

1,2-Phenylenediamine	95-54-5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN
1,3-Phenylenediamine	108-45-2	0.010	0.66

P001

Warfarin, & salts, when present at concentrations greater than 0.3 percent.

Warfarin	81-81-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P002

1-Acetyl-2-thiourea.

1-Acetyl-2-thiourea	591-08-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P003

Acrolein.

Acrolein	107-02-8	0.29	CMBST

P004

Aldrin.

Aldrin	309-00-2	0.021	0.066

P005

Allyl alcohol.

Allyl alcohol	107-18-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P006

Aluminum phosphide.

Aluminum phosphide	20859-73-8	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

P007

5-Aminomethyl-3-isoxazolol.

5-Aminomethyl-3-isoxazolol	2763-96-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P008

4-Aminopyridine.

4-Aminopyridine	504-24-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P009

Ammonium picrate.

Ammonium picrate	131-74-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

P010

Arsenic acid.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

P011

Arsenic pentoxide.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

P012

Arsenic trioxide.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

P013

Barium cyanide.

Barium	7440-39-3	NA	21 mg/ℓ TCLP
Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

P014

Thiophenol (Benzene thiol).

Thiophenol (Benzene thiol)	108-98-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P015

Beryllium dust.

Beryllium	7440-41-7	RMETL;or RTHRM	RMETL; or RTHRM

P016

Dichloromethyl ether (Bis(chloromethyl)ether).

Dichloromethyl ether	542-88-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P017

Bromoacetone.

Bromoacetone	598-31-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P018

Brucine.

Brucine	357-57-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P020

2-sec-Butyl-4,6-dinitrophenol (Dinoseb).

2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	88-85-7	0.066	2.5

P021

Calcium cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

P022

Carbon disulfide.

Carbon disulfide	75-15-0	3.8	CMBST
Carbon disulfide; alternate[6] standard for nonwastewaters only	75-15-0	NA	4.8 mg/ℓ TCLP

P023

Chloroacetaldehyde.

Chloroacetaldehyde	107-20-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P024

p-Chloroaniline.

p-Chloroaniline	106-47-8	0.46	16

P026

1-(o-Chlorophenyl)thiourea.

1-(o-Chlorophenyl)thiourea	5344-82-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P027

3-Chloropropionitrile.

3-Chloropropionitrile	542-76-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P028

Benzyl chloride.

Benzyl chloride	100-44-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P029

Copper cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

P030

Cyanides (soluble salts and complexes).

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

P031

Cyanogen.

Cyanogen	460-19-5	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST

P033

Cyanogen chloride.

Cyanogen chloride	506-77-4	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST

P034

2-Cyclohexyl-4,6-dinitrophenol.

2-Cyclohexyl-4,6-dinitrophenol	131-89-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P036

Dichlorophenylarsine.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

P037

Dieldrin.

Dieldrin	60-57-1	0.017	0.13

P038

Diethylarsine.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

P039

Disulfoton.

Disulfoton	298-04-4	0.017	6.2

P040

O,O-Diethyl-O-pyrazinyl-phosphorothioate.

O,O-Diethyl-O-pyrazinylphosphorothioate	297-97-2	CARBN; or CMBST	CMBST

P041

Diethyl-p-nitrophenyl phosphate.

Diethyl-p-nitrophenyl phosphate	311-45-5	CARBN; or CMBST	CMBST

P042

Epinephrine.

Epinephrine	51-43-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P043

Diisopropylfluorophosphate (DFP).

Diisopropylfluorophosphate (DFP)	55-91-4	CARBN; or CMBST	CMBST

P044

Dimethoate.

Dimethoate	60-51-5	CARBN; or CMBST	CMBST

P045

Thiofanox.

Thiofanox	39196-18-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P046

α,α-Dimethylphenethylamine.

α,α-Dimethylphenethylamine	122-09-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P047

4,6-Dinitro-o-cresol.

4,6-Dinitro-o-cresol	543-52-1	0.28	160

P047

4,6-Dinitro-o-cresol salts.

NA	NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P048

2,4-Dinitrophenol.

2,4-Dinitrophenol	51-28-5	0.12	160

P049

Dithiobiuret.

Dithiobiuret	541-53-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P050

Endosulfan.

Endosulfan I	939-98-8	0.023	0.066
Endosulfan II	33213-6-5	0.029	0.13
Endosulfan sulfate	1031-07-8	0.029	0.13

P051

Endrin.

Endrin	72-20-8	0.0028	0.13
Endrin aldehyde	7421-93-4	0.025	0.13

P054

Aziridine.

Aziridine	151-56-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P056

Fluorine.

Fluoride (measured in wastewaters only)	16964-48-8	35	ADGAS fb NEUTR

P057

Fluoroacetamide.

Fluoroacetamide	640-19-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P058

Fluoroacetic acid, sodium salt.

Fluoroacetic acid, sodium salt	62-74-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P059

Heptachlor.

Heptachlor	76-44-8	0.0012	0.066
Heptachlor epoxide	1024-57-3	0.016	0.066

P060

Isodrin.

Isodrin	465-73-6	0.021	0.066

P062

Hexaethyl tetraphosphate.

Hexaethyl tetraphosphate	757-58-4	CARBN; or CMBST	CMBST

P063

Hydrogen cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

P064

Isocyanic acid, ethyl ester.

Isocyanic acid, ethyl ester	624-83-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P065

P065 (mercury fulminate) nonwastewaters, regardless of their total mercury content, that are not incinerator residues or are not residues from RMERC.

Mercury	7439-97-6	NA	IMERC

P065

P065 (mercury fulminate) nonwastewaters that are either incinerator residues or are residues from RMERC; and contain greater than or equal to 260 mg/kg total mercury.

Mercury	7339-97-6	NA	RMERC

P065

P065 (mercury fulminate) nonwastewaters that are residues from RMERC and contain less than 260 mg/kg total mercury.

Mercury	7439-97-6	NA	0.20 mg/ℓ TCLP

P065

P065 (mercury fulminate) nonwastewaters that are incinerator residues and contain less than 260 mg/kg total mercury.

Mercury	7439-97-6	NA	0.025 mg/ℓ TCLP

P065

All P065 (mercury fulminate) wastewaters.

Mercury	7439-97-6	0.15	NA

P066

Methomyl.

Methomyl	16752-77-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P067

2-Methyl-aziridine.

2-Methyl-aziridine	75-55-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P068

Methyl hydrazine.

Methyl hydrazine	60-34-4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED, or CMBST

P069

2-Methyllactonitrile.

2-Methyllactonitrile	75-86-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P070

Aldicarb.

Aldicarb	116-06-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P071

Methyl parathion.

Methyl parathion	298-00-0	0.014	4.6

P072

1-Naphthyl-2-thiourea.

1-Naphthyl-2-thiourea	86-88-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P073

Nickel carbonyl.

Nickel	7440-02-0	3.98	11 mg/ℓ TCLP

P074

Nickel cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP

P075

Nicotine and salts.

Nicotine and salts	54-11-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P076

Nitric oxide.

Nitric oxide	10102-43-9	ADGAS	ADGAS

P077

p-Nitroaniline.

p-Nitroaniline	100-01-6	0.028	28

P078

Nitrogen dioxide.

Nitrogen dioxide	10102-44-0	ADGAS	ADGAS

P081

Nitroglycerin.

Nitroglycerin	55-63-0	CHOXD; CHRED; CARBN; BIODG or CMBST	CHOXD; CHRED; or CMBST
P082			
N-Nitrosodimethylamine.			
N-Nitrosodimethylamine	62-75-9	0.40	2.3
P084			
N-Nitrosomethylvinylamine.			
N-Nitrosomethylvinylamine	4549-40-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P085			
Octamethylpyrophosphoramide.			
Octamethylpyrophosphoramide	152-16-9	CARBN; or CMBST	CMBST
P087			
Osmium tetroxide.			
Osmium tetroxide	20816-12-0	RMETL; or RTHRM	RMETL; or RTHRM
P088			
Endothall.			

Endothall	145-73-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P089

Parathion.

Parathion	56-38-2	0.014	4.6

P092

P092 (phenyl mercuric acetate) nonwastewaters, regardless of their total mercury content, that are not incinerator residues or are not residues from RMERC.

Mercury	7439-97-6	NA	IMERC; or RMERC

P092

P092 (phenyl mercuric acetate) nonwastewaters that are either incinerator residues or are residues from RMERC; and still contain greater than or equal to 260 mg/kg total mercury.

Mercury	7439-97-6	NA	RMERC

P092

P092 (phenyl mercuric acetate) nonwastewaters that are residues from RMERC and contain less than 260 mg/kg total mercury.

Mercury	7439-97-6	NA	0.20 mg/ℓ TCLP

P092

P092 (phenyl mercuric acetate) nonwastewaters that are incinerator residues and contain less than 260 mg/kg total mercury.

Mercury	7439-97-6	NA	0.025 mg/ℓ TCLP

P092

All P092 (phenyl mercuric acetate) wastewaters.

Mercury	7439-97-6	0.15	NA

P093

Phenylthiourea.

Phenylthiourea	103-85-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P094

Phorate.

Phorate	298-02-2	0.021	4.6

P095

Phosgene.

Phosgene	75-44-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P096

Phosphine.

Phosphine	7803-51-2	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

P097

Famphur.

Famphur	52-85-7	0.017	15

P098

Potassium cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

P099

Potassium silver cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Silver	7440-22-4	0.43	0.14 mg/ℓ TCLP

P101

Ethyl cyanide (Propanenitrile).

Ethyl cyanide (Propanenitrile)	107-12-0	0.24	360

P102

Propargyl alcohol.

Propargyl alcohol	107-19-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P103

Selenourea.

Selenium	7782-49-2	0.82	5.7 mg/ℓ TCLP

P104

Silver cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30
Silver	7440-22-4	0.43	0.14 mg/ℓ TCLP

P105

Sodium azide.

Sodium azide	26628-22-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

P106

Sodium cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

P108

Strychnine and salts.

Strychnine and salts	57-24-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P109

Tetraethyldithiopyrophosphate.

Tetraethyldithiopyrophosphate	3689-24-5	CARBN; or CMBST	CMBST
P110			
Tetraethyl lead.			
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
P111			
Tetraethylpyrophosphate.			
Tetraethylpyrophosphate	107-49-3	CARBN; or CMBST	CMBST
P112			
Tetranitromethane.			
Tetranitromethane	509-14-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
P113			
Thallic oxide.			
Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL
P114			
Thallium selenite.			
Selenium	7782-49-2	0.82	5.7 mg/ℓ TCLP
P115			

Thallium (I) sulfate.

Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL

P116

Thiosemicarbazide.

Thiosemicarbazide	79-19-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P118

Trichloromethanethiol.

Trichloromethanethiol	75-70-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P119

Ammonium vanadate.

Vanadium (measured in wastewaters only)	7440-62-2	4.3	STABL

P120

Vanadium pentoxide.

Vanadium (measured in wastewaters only)	7440-62-2	4.3	STABL

P121

Zinc cyanide.

Cyanides (Total)[7]	57-12-5	1.2	590
Cyanides (Amenable)[7]	57-12-5	0.86	30

P122

Zinc phosphide Zn_3P_2, when present at concentrations greater than 10 percent.

Zinc Phosphide	1314-84-7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

P123

Toxaphene.

Toxaphene	8001-35-2	0.0095	2.6

P127

Carbofuran.

Carbofuran	1563-66-2	0.006	0.14

P128

Mexacarbate.

Mexacarbate	315-18-4	0.056	1.4

P185

Tirpate.[10]

Tirpate	26419-73-8	0.056	0.28

P188

Physostigimine salicylate.

Physostigmine salicylate	57-64-7	0.056	1.4
P189			
Carbosulfan.			
Carbosulfan	55285-14-8	0.028	1.4
P190			
Metolcarb.			
Metolcarb	1129-41-5	0.056	1.4
P191			
Dimetilan.[10]			
Dimetilan	644-64-4	0.056	1.4
P192			
Isolan.[10]			
Isolan	119-38-0	0.056	1.4
P194 Oxamyl.			
Oxamyl	23135-22-0	0.056	0.28
P196			
Manganese dimethyldithiocarbamates (total).			
Dithiocarbamates (total)	NA	0.028	28
P197			

Formparanate.[10]

Formparanate	17702-57-7	0.056	1.4

P198

Formetanate hydrochloride.

Formetanate hydrochloride	23422-53-9	0.056	1.4

P199

Methiocarb.

Methiocarb	2032-65-7	0.056	1.4

P201

Promecarb.

Promecarb	2631-37-0	0.056	1.4

P202

m-Cumenyl methylcarbamate.

m-Cumenyl methylcarbamate	64-00-6	0.056	1.4

P203

Aldicarb sulfone.

Aldicarb sulfone	1646-88-4	0.056	0.28

P204

Physostigmine.

Physostigmine	57-47-6	0.056	1.4
P205			
Ziram.			
Dithiocarbamates (total)	NA	0.028	28
U001			
Acetaldehyde.			
Acetaldehyde	75-07-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U002			
Acetone.			
Acetone	67-64-1	0.28	160
U003			
Acetonitrile.			
Acetonitrile	75-05-8	5.6	CMBST
Acetonitrile; alternate[6] standard for nonwastewaters only	75-05-8	NA	38
U004			
Acetophenone.			
Acetophenone	98-86-2	0.010	9.7
U005			

2-Acetylaminofluorene.

2-Acetylaminofluorene	53-96-3	0.059	140

U006

Acetyl chloride.

Acetyl chloride	75-36-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U007

Acrylamide.

Acrylamide	79-06-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U008

Acrylic acid.

Acrylic acid	79-10-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U009

Acrylonitrile.

Acrylonitrile	107-13-1	0.24	84

U010

Mitomycin C.

Mitomycin C	50-07-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U011

Amitrole.

Amitrole	61-82-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U012

Aniline.

Aniline	62-53-3	0.81	14

U014

Auramine.

Auramine	492-80-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U015

Azaserine.

Azaserine	115-02-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U016

Benz(c)acridine.

Benz(c)acridine	225-51-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U017

Benzal chloride.

Benzal chloride	98-87-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U018

Benz(a)anthracene.

Benz(a)anthracene	56-55-3	0.059	3.4

U019

Benzene.

Benzene	71-43-2	0.14	10

U020

Benzenesulfonyl chloride.

Benzenesulfonyl chloride	98-09-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U021

Benzidine.

Benzidine	92-87-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U022

Benzo(a)pyrene.

Benzo(a)pyrene	50-32-8	0.061	3.4

U023

Benzotrichloride.

Benzotrichloride	98-07-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U024

bis(2-Chloroethoxy)methane.

bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2

U025

bis(2-Chloroethyl)ether.

bis(2-Chloroethyl)ether	111-44-4	0.033	6.0

U026

Chlornaphazine.

Chlornaphazine	494-03-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U027			
bis(2-Chloroisopropyl)ether.			
bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
U028			
bis(2-Ethylhexyl)phthalate.			
bis(2-Ethylhexyl)phthalate	117-81-7	0.28	28
U029			
Methyl bromide (Bromomethane).			
Methyl bromide (Bromomethane)	74-83-9	0.11	15
U030			
4-Bromophenyl phenyl ether.			
4-Bromophenyl phenyl ether	101-55-3	0.055	15
U031			
n-Butyl alcohol.			
n-Butyl alcohol	71-36-3	5.6	2.6
U032			

Calcium chromate.

Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP

U033

Carbon oxyfluoride.

Carbon oxyfluoride	353-50-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U034

Trichloroacetaldehyde (Chloral).

Trichloroacetaldehyde (Chloral)	75-87-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U035

Chlorambucil.

Chlorambucil	305-03-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U036

Chlordane.

Chlordane (α and χ isomers)	57-74-9	0.0033	0.26

U037

Chlorobenzene.

Chlorobenzene	108-90-7	0.057	6.0

U038

Chlorobenzilate.

Chlorobenzilate	510-15-6	0.10	CMBST

U039

p-Chloro-m-cresol.

p-Chloro-m-cresol	59-50-7	0.018	14

U041

Epichlorohydrin (1-Chloro-2,3-epoxypropane).

Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106-89-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U042

2-Chloroethyl vinyl ether.

2-Chloroethyl vinyl ether	110-75-8	0.062	CMBST

U043

Vinyl chloride.

Vinyl chloride	75-01-4	0.27	6.0

U044

Chloroform.

Chloroform	67-66-3	0.046	6.0

U045

Chloromethane (Methyl chloride).

Chloromethane (Methyl chloride)	74-87-3	0.19	30

U046

Chloromethyl methyl ether.

Chloromethyl methyl ether	107-30-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U047

2-Chloronaphthalene.

2-Chloronaphthalene	91-58-7	0.055	5.6

U048

2-Chlorophenol.

2-Chlorophenol	95-57-8	0.044	5.7

U049

4-Chloro-o-toluidine hydrochloride.

4-Chloro-o-toluidine hydrochloride	3165-93-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U050

Chrysene.

Chrysene	218-01-9	0.059	3.4

U051

Creosote.

Naphthalene	91-20-3	0.059	5.6
Pentachlorophenol	87-86-5	0.089	7.4
Phenanthrene	85-01-8	0.059	5.6
Pyrene	129-00-0	0.067	8.2
Toluene	108-88-3	0.080	10
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

U052

Cresols (Cresylic acid).

o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88	11.2

U053

Crotonaldehyde.

Crotonaldehyde	4170-30-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U055

Cumene.

Cumene	98-82-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U056

Cyclohexane.

Cyclohexane	110-82-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U057

Cyclohexanone.

Cyclohexanone	108-94-1	0.36	CMBST
Cyclohexanone; alternate[6] standard for nonwastewaters only	108-94-1	NA	0.75 mg/ℓ TCLP

U058

Cyclophosphamide.

Cyclophosphamide	50-18-0	CARBN; or CMBST	CMBST
U059			
Daunomycin.			
Daunomycin	20830-81-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U060			
DDD.			
o,p'-DDD	53-19-0	0.023	0.087
p,p'-DDD	72-54-8	0.023	0.087
U061			
DDT.			
o,p'-DDT	789-02-6	0.0039	0.087
p,p'-DDT	50-29-3	0.0039	0.087
o,p'-DDD	53-19-0	0.023	0.087
p,p'-DDD	72-54-8	0.023	0.087
o,p'-DDE	3424-82-6	0.031	0.087
p,p'-DDE	72-55-9	0.031	0.087
U062			
Diallate.			
Diallate	2303-16-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U063

Dibenz(a,h)anthracene.

Dibenz(a,h)anthracene	53-70-3	0.055	8.2

U064

Dibenz(a,i)pyrene.

Dibenz(a,i)pyrene	189-55-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U066

1,2-Dibromo-3-chloropropane.

1,2-Dibromo-3-chloropropane	96-12-8	0.11	15

U067

Ethylene dibromide (1,2-Dibromoethane).

Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15

U068

Dibromomethane.

Dibromomethane	74-95-3	0.11	15

U069

Di-n-butyl phthalate.

Di-n-butyl phthalate	84-74-2	0.057	28
U070			
o-Dichlorobenzene.			
o-Dichlorobenzene	95-50-1	0.088	6.0
U071			
m-Dichlorobenzene.			
m-Dichlorobenzene	541-73-1	0.036	6.0
U072			
p-Dichlorobenzene.			
p-Dichlorobenzene	106-46-7	0.090	6.0
U073			
3,3'-Dichlorobenzidine.			
3,3'-Dichlorobenzidine	91-94-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U074			
1,4-Dichloro-2-butene.			
cis-1,4-Dichloro-2-butene	1476-11-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

trans-1,4-Dichloro-2-butene	764-41-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U075			
Dichlorodifluoromethane.			
Dichlorodifluoromethane	75-71-8	0.23	7.2
U076			
1,1-Dichloroethane.			
1,1-Dichloroethane	75-34-3	0.059	6.0
U077			
1,2-Dichloroethane.			
1,2-Dichloroethane	107-06-2	0.21	6.0
U078			
1,1-Dichloroethylene.			
1,1-Dichloroethylene	75-35-4	0.025	6.0
U079			
1,2-Dichloroethylene.			
trans-1,2-Dichloroethylene	156-60-5	0.054	30
U080			
Methylene chloride.			

Methylene chloride	75-09-2	0.089	30

U081

2,4-Dichlorophenol.

2,4-Dichlorophenol	120-83-2	0.044	14

U082

2,6-Dichlorophenol.

2,6-Dichlorophenol	87-65-0	0.044	14

U083

1,2-Dichloropropane.

1,2-Dichloropropane	78-87-5	0.85	18

U084

1,3-Dichloropropylene.

cis-1,3-Dichloropropylene	10061-01-5	0.036	18
trans-1,3-Dichloropropylene	10061-02-6	0.036	18

U085

1,2:3,4-Diepoxybutane.

1,2:3,4-Diepoxybutane	1464-53-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U086

N,N'-Diethylhydrazine.

N,N'-Diethylhydrazine	1615-80-1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U087

O,O-Diethyl-S-methyldithiophosphate.

O,O-Diethyl-S-methyldithiophosphate	3288-58-2	CARBN; or CMBST	CMBST

U088

Diethyl phthalate.

Diethyl phthalate	84-66-2	0.20	28

U089

Diethyl stilbestrol.

Diethyl stilbestrol	56-53-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U090

Dihydrosafrole.

Dihydrosafrole	94-58-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U091

3,3'-Dimethoxybenzidine.

3,3'-Dimethoxybenzidine	119-90-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U092

Dimethylamine.

Dimethylamine	124-40-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U093

p-Dimethylaminoazobenzene.

p-Dimethylaminoazobenzene	60-11-7	0.13	CMBST

U094

7,12-Dimethylbenz(a)anthracene.

7,12-Dimethylbenz(a)anthracene	57-97-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U095

3,3'-Dimethylbenzidine.

3,3'-Dimethylbenzidine	119-93-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U096

α, α-Dimethyl benzyl hydroperoxide.

α, α-Dimethyl benzyl hydroperoxide	80-15-9	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U097

Dimethylcarbamoyl chloride.

Dimethylcarbamoyl chloride	79-44-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U098

1,1-Dimethylhydrazine.

1,1-Dimethylhydrazine	57-14-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U099

1,2-Dimethylhydrazine.

1,2-Dimethylhydrazine	540-73-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U101

2,4-Dimethylphenol.

2,4-Dimethylphenol	105-67-9	0.036	14

U102

Dimethyl phthalate.

Dimethyl phthalate	131-11-3	0.047	28

U103

Dimethyl sulfate.

Dimethyl sulfate	77-78-1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U105

2,4-Dinitrotoluene.

2,4-Dinitrotoluene	121-14-2	0.32	140

U106

2,6-Dinitrotoluene.

2,6-Dinitrotoluene	606-20-2	0.55	28

U107

Di-n-octyl phthalate.

Di-n-octyl phthalate	117-84-0	0.017	28

U108

1,4-Dioxane.

1,4-Dioxane	123-91-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
1,4-Dioxane; alternate[6] standard for nonwastewaters only	123-91-1	12.0	170

U109

1,2-Diphenylhydrazine.

1,2-Diphenylhydrazine	122-66-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
1,2-Diphenylhydrazine; alternate[6] standard for wastewaters only	122-66-7	0.087	NA

U110

Dipropylamine.

Dipropylamine	142-84-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U111

Di-n-propylnitrosamine.

Di-n-propylnitrosamine	621-64-7	0.40	14

U112

Ethyl acetate.

Ethyl acetate	141-78-6	0.34	33

U113

Ethyl acrylate.

Ethyl acrylate	140-88-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U114

Ethylenebisdithiocarbamic acid salts and esters.

Ethylenebisdithiocarbamic acid	111-54-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U115

Ethylene oxide.

Ethylene oxide	75-21-8	(WETOX or CHOXD) fb CARBN; or CMBST	CHOXD; or CMBST
Ethylene oxide; alternate[6] standard for wastewaters only	75-21-8	0.12	NA

U116

Ethylene thiourea.

Ethylene thiourea	96-45-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U117

Ethyl ether.

Ethyl ether	60-29-7	0.12	160

U118

Ethyl methacrylate.

Ethyl methacrylate	97-63-2	0.14	160

U119

Ethyl methane sulfonate.

Ethyl methane sulfonate	62-50-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U120

Fluoranthene.

Fluoranthene	206-44-0	0.068	3.4

U121

Trichloromonofluoromethane.

Trichloromonofluoromethane	75-69-4	0.020	30

U122

Formaldehyde.

Formaldehyde	50-00-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U123

Formic acid.

Formic acid	64-18-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U124

Furan.

Furan	110-00-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U125

Furfural.

Furfural	98-01-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U126

Glycidylaldehyde.

Glycidylaldehyde	765-34-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U127

Hexachlorobenzene.

Hexachlorobenzene	118-74-1	0.055	10

U128

Hexachlorobutadiene.

Hexachlorobutadiene	87-68-3	0.055	5.6

U129

Lindane.

α-BHC	319-84-6	0.00014	0.066
β-BHC	319-85-7	0.00014	0.066
δ-BHC	319-86-8	0.023	0.066
γ-BHC (Lindane)	58-89-9	0.0017	0.066

U130

Hexachlorocyclopentadiene.

Hexachlorocyclopentadiene	77-47-4	0.057	2.4

U131

Hexachloroethane.

Hexachloroethane	67-72-1	0.055	30

U132

Hexachlorophene.

Hexachlorophene	70-30-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U133

Hydrazine.

Hydrazine	302-01-2	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U134

Hydrogen fluoride.

Fluoride (measured in wastewaters only)	7664-39-3 ~~16964-48-8~~	35	ADGAS fb NEUTR; or NEUTR

U135

Hydrogen sulfide.

Hydrogen sulfide	7783-06-4	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

U136

Cacodylic acid.

Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP

U137

Indeno(1,2,3-cd)pyrene.
~~Indeno(1,2,3-c,d)pyrene.~~

Indeno(1,2,3-cd)pyrene ~~Indeno(1,2,3-c,d)pyrene~~	193-39-5	0.0055	3.4

U138

Iodomethane.

Iodomethane	74-88-4	0.19	65

U140

Isobutyl alcohol.

Isobutyl alcohol	78-83-1	5.6	170

U141

Isosafrole.

Isosafrole	120-58-1	0.081	2.6

U142

Kepone.

Kepone	143-50-8	0.0011	0.13

U143

Lasiocarpine.

Lasiocarpine	303-34-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U144

Lead acetate.

Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

U145

Lead phosphate.

Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

U146

Lead subacetate.

Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP

U147

Maleic anhydride.

Maleic anhydride	108-31-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U148

Maleic hydrazide.

Maleic hydrazide	123-33-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U149

Malononitrile.

Malononitrile	109-77-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U150

Melphalan.

Melphalan	148-82-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U151

U151 (mercury) nonwastewaters that contain greater than or equal to 260 mg/kg total mercury.

Mercury	7439-97-6	NA	RMERC

U151

U151 (mercury) nonwastewaters that contain less than 260 mg/kg total mercury and that are residues from RMERC only.

Mercury	7439-97-6	NA	0.20 mg/ℓ TCLP

U151

U151 (mercury) nonwastewaters that contain less than 260 mg/kg total mercury and that are not residues from RMERC only.

Mercury	7439-97-6	NA	0.025 mg/ℓ TCLP

U151

All U151 (mercury) wastewater.

Mercury	7439-97-6	0.15	NA

U151

Elemental Mercury Contaminated with Radioactive Materials.

Mercury	7439-97-6	NA	AMLGM

U152

Methacrylonitrile.

Methacrylonitrile	126-98-7	0.24	84

U153

Methanethiol.

Methanethiol	74-93-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U154

Methanol.

Methanol	67-56-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
Methanol; alternate[6] set of standards for both wastewaters and nonwastewaters	67-56-1	5.6	0.75 mg/ℓ TCLP

U155

Methapyrilene.

Methapyrilene	91-80-5	0.081	1.5

U156

Methyl chlorocarbonate.

Methyl chlorocarbonate	79-22-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U157

3-Methylcholanthrene.

3-Methylcholanthrene	56-49-5	0.0055	15

U158

4,4'-Methylene bis(2-chloroaniline).

4,4'-Methylene bis(2-chloroaniline)	101-14-4	0.50	30

U159

Methyl ethyl ketone.

Methyl ethyl ketone	78-93-3	0.28	36

U160

Methyl ethyl ketone peroxide.

Methyl ethyl ketone peroxide	1338-23-4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST

U161

Methyl isobutyl ketone.

Methyl isobutyl ketone	108-10-1	0.14	33

U162

Methyl methacrylate.

Methyl methacrylate	80-62-6	0.14	160

U163

N-Methyl-N'-nitro-N-nitrosoguanidine.

N-Methyl-N'-nitro-N-nitrosoguanidine	70-25-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U164

Methylthiouracil.

Methylthiouracil	56-04-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U165

Naphthalene.

Naphthalene	91-20-3	0.059	5.6

U166

1,4-Naphthoquinone.

1,4-Naphthoquinone	130-15-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U167			
1-Naphthylamine.			
1-Naphthylamine	134-32-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U168			
2-Naphthylamine.			
2-Naphthylamine	91-59-8	0.52	CMBST
U169			
Nitrobenzene.			
Nitrobenzene	98-95-3	0.068	14
U170			
p-Nitrophenol.			
p-Nitrophenol	100-02-7	0.12	29
U171			
2-Nitropropane.			

2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U172

N-Nitrosodi-n-butylamine.

N-Nitrosodi-n-butylamine	924-16-3	0.40	17

U173

N-Nitrosodiethanolamine.

N-Nitrosodiethanolamine	1116-54-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U174

N-Nitrosodiethylamine.

N-Nitrosodiethylamine	55-18-5	0.40	28

U176

N-Nitroso-N-ethylurea.

N-Nitroso-N-ethylurea	759-73-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U177

N-Nitroso-N-methylurea.

N-Nitroso-N-methylurea	684-93-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U178

N-Nitroso-N-methylurethane.

N-Nitroso-N-methylurethane	615-53-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U179

N-Nitrosopiperidine.

N-Nitrosopiperidine	100-75-4	0.013	35

U180

N-Nitrosopyrrolidine.

N-Nitrosopyrrolidine	930-55-2	0.013	35

U181

5-Nitro-o-toluidine.

5-Nitro-o-toluidine	99-55-8	0.32	28

U182

Paraldehyde.

Paraldehyde	123-63-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U183			
Pentachlorobenzene.			
Pentachlorobenzene	608-93-5	0.055	10
U184			
Pentachloroethane.			
Pentachloroethane	76-01-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
Pentachloroethane; alternate[6] standards for both wastewaters and nonwastewaters	76-01-7	0.055	6.0
U185			
Pentachloronitrobenzene.			
Pentachloronitrobenzene	82-68-8	0.055	4.8
U186			
1,3-Pentadiene.			
1,3-Pentadiene	504-60-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U187			

Phenacetin.

Phenacetin	62-44-2	0.081	16

U188

Phenol.

Phenol	108-95-2	0.039	6.2

U189

Phosphorus sulfide.

Phosphorus sulfide	1314-80-3	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

U190

Phthalic anhydride.

Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28

U191

2-Picoline.

2-Picoline	109-06-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U192

Pronamide.

Pronamide	23950-58-5	0.093	1.5

U193

1,3-Propane sultone.

1,3-Propane sultone	1120-71-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U194

n-Propylamine.

n-Propylamine	107-10-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U196

Pyridine.

Pyridine	110-86-1	0.014	16

U197

p-Benzoquinone.

p-Benzoquinone	106-51-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U200

Reserpine.

Reserpine	50-55-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U201

Resorcinol

Resorcinol.	108-46-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U202

Saccharin and salts.

Saccharin	81-07-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U203

Safrole.

Safrole	94-59-7	0.081	22

U204

Selenium dioxide.

Selenium	7782-49-2	0.82	5.7 mg/ℓ TCLP

U205

Selenium sulfide.

Selenium	7782-49-2	0.82	5.7 mg/ℓ TCLP

U206

Streptozotocin.

Streptozotocin	18883-66-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U207

1,2,4,5-Tetrachlorobenzene.

1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14

U208
1,1,1,2-
Tetrachloroethane.

1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0

U209

1,1,2,2-Tetrachloroethane.

1,1,2,2-Tetrachloroethane	79-34-5	0.057	6.0

U210

Tetrachloroethylene.

Tetrachloroethylene	127-18-4	0.056	6.0

U211

Carbon tetrachloride.

Carbon tetrachloride	56-23-5	0.057	6.0

U213

Tetrahydrofuran.

Tetrahydrofuran	109-99-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U214

Thallium (I) acetate.

Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL

U215

Thallium (I) carbonate.

Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL

U216

Thallium (I) chloride.

Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL

U217

Thallium (I) nitrate.

Thallium (measured in wastewaters only)	7440-28-0	1.4	RTHRM; or STABL
U218			
Thioacetamide.			
Thioacetamide	62-55-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U219			
Thiourea.			
Thiourea	62-56-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U220			
Toluene.			
Toluene	108-88-3	0.080	10
U221			
Toluenediamine.			
Toluenediamine	25376-45-8	CARBN; or CMBST	CMBST
U222			
o-Toluidine hydrochloride.			

o-Toluidine hydrochloride	636-21-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U223

Toluene diisocyanate.

Toluene diisocyanate	26471-62-5	CARBN; or CMBST	CMBST

U225

Bromoform (Tribromomethane).

Bromoform (Tribromomethane)	75-25-2	0.63	15

U226
1,1,1-Trichloroethane.

1,1,1-Trichloroethane	71-55-6	0.054	6.0

U227

1,1,2-Trichloroethane.

1,1,2-Trichloroethane	79-00-5	0.054	6.0

U228

Trichloroethylene.

Trichloroethylene	79-01-6	0.054	6.0

U234
1,3,5-Trinitrobenzene.

1,3,5-Trinitrobenzene	99-35-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U235

tris-(2,3-Dibromopropyl)-phosphate.

tris-(2,3-Dibromopropyl)-phosphate	126-72-7	0.11	0.10

U236

Trypan Blue.

Trypan Blue	72-57-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U237

Uracil mustard.

Uracil mustard	66-75-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U238

Urethane (Ethyl carbamate).

Urethane (Ethyl carbamate)	51-79-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U239

Xylenes.

Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30

U240

2,4-D (2,4-Dichlorophenoxyacetic acid).

2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	0.72	10
2,4-D (2,4-Dichlorophenoxyacetic acid) salts and esters	NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U243

Hexachloropropylene.

Hexachloropropylene	1888-71-7	0.035	30

U244

Thiram.

Thiram	137-26-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U246

Cyanogen bromide.

Cyanogen bromide	506-68-3	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST

U247

Methoxychlor.

Methoxychlor	72-43-5	0.25	0.18

U248

Warfarin, & salts, when present at concentrations of 0.3 percent or less.

Warfarin	81-81-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U249

Zinc phosphide, Zn_3P_2, when present at concentrations of 10 percent or less.

Zinc Phosphide	1314-84-7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

U271

Benomyl.

Benomyl	17804-35-2	0.056	1.4

U278

Bendiocarb.

Bendiocarb	22781-23-3	0.056	1.4

U279

Carbaryl.

Carbaryl	63-25-2	0.006	0.14

U280

Barban.

Barban	101-27-9	0.056	1.4

U328

o-Toluidine.

o-Toluidine	95-53-4	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST

U353

p-Toluidine.

p-Toluidine	106-49-0	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST

U359

2-Ethoxyethanol.

2-Ethoxyethanol	110-80-5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST
U364			
Bendiocarb phenol.[10]			
Bendiocarb phenol	22961-82-6	0.056	1.4
U367			
Carbofuran phenol.			
Carbofuran phenol	1563-38-8	0.056	1.4
U372 Carbendazim.			
Carbendazim	10605-21-7	0.056	1.4
U373			
Propham.			
Propham	122-42-9	0.056	1.4
U387			
Prosulfocarb.			
Prosulfocarb	52888-80-9	0.042	1.4
U389			

Triallate.

Triallate	2303-17-5	0.042	1.4

U394

A2213.[10]

A2213	30558-43-1	0.042	1.4

U395

Diethylene glycol, dicarbamate.[10]

Diethylene glycol, dicarbamate	5952-26-1	0.056	1.4

U404

Triethylamine.

Triethylamine	101-44-8	0.081	1.5

U409

Thiophanate-methyl.

Thiophanate-methyl	23564-05-8	0.056	1.4

U410

Thiodicarb.

Thiodicarb	59669-26-0	0.019	1.4

U411

Propoxur.

Propoxur	114-26-1	0.056	1.4

Notes:

1 The waste descriptions provided in this table do not replace waste descriptions in 35 Ill. Adm. Code 721. Descriptions of Treatment or Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

2 CAS means Chemical Abstract Services. When the waste code or regulated constituents are described as a combination of a chemical with its salts or esters, the CAS number is given for the parent compound only.

3 Concentration standards for wastewaters are expressed in mg/ℓ and are based on analysis of composite samples.

4 All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in Table C of this Part, “Technology Codes and Descriptions of Technology-Based Standards.” “fb” inserted between waste codes denotes “followed by,” so that the first-listed treatment is followed by the second-listed treatment. A semicolon (;) separates alternative treatment schemes.

5 Except for Metals (EP or TCLP) and Cyanides (Total and Amenable), the nonwastewater treatment standards expressed as a concentration were established, in part, based on incineration in units operated in accordance with the technical requirements of Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725 or based on combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in Section 728.140(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

6 Where an alternate treatment standard or set of alternate standards has been indicated, a facility may comply with this alternate standard, but only for the Treatment or Regulatory Subcategory or physical form (i.e., wastewater or nonwastewater) specified for that alternate standard.

7 Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010C or 9012B, in "Test Methods for Evaluating Solid Waste, Physical or Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

8 These wastes, when rendered non-hazardous and then subsequently managed in CWA or CWA-equivalent systems, are not subject to treatment standards. (See Section 728.101(c)(3) and (c)(4).)

9 These wastes, when rendered non-hazardous and then subsequently injected in a Class I SDWA well, are not subject to treatment standards. (See 35 Ill. Adm. Code 738.101(d).)

10 The treatment standard for this waste may be satisfied by either meeting the constituent concentrations in the table in this Section or by treating the waste by the specified technologies: combustion, as defined by the technology code CMBST at Table C, for nonwastewaters; and biodegradation, as defined by the technology code BIODG; carbon adsorption, as defined by the technology code CARBN; chemical oxidation, as defined by the technology code CHOXD; or combustion, as defined as technology code CMBST, at Table C, for wastewaters.

11 For these wastes, the definition of CMBST is limited to any of the following that have obtained a determination of equivalent treatment under Section 728.142(b): (1) combustion units operating under 35 Ill. Adm. Code 726, (2) combustion units permitted under Subpart O of 35 Ill. Adm. Code 724, or (3) combustion units operating under Subpart O of 35 Ill. Adm. Code 725.

12 Disposal of USEPA hazardous waste number K175 waste that has complied with all applicable Section 728.140 treatment standards must also be macroencapsulated in accordance with Table F of this Part, unless the waste is placed in either of the following types of facilities:

a) A RCRA Subtitle C monofill containing only K175 wastes that meet all applicable 40 CFR 268.40 treatment standards; or

b) A dedicated RCRA Subtitle C landfill cell in which all other wastes being co-disposed are at pH≤6.0.

BOARD NOTE: Derived from table to 40 CFR 268.40 (2007)~~(2005)~~.

NA means not applicable.

(Source: Amended at 32 Ill. Reg. 12840, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 728.TABLE U Universal Treatment Standards (UTS)

Regulated Constituent-Common Name	CAS[1] No.	Wastewater Standard Concentration[2] (in mg/ℓ [2])	Nonwastewater Standard Concentration[3] (in mg/kg[3] unless noted as "mg/ℓ TCLP")
Acenaphthylene	208-96-8	0.059	3.4
Acenaphthene	83-32-9	0.059	3.4
Acetone	67-64-1	0.28	160
Acetonitrile	75-05-8	5.6	38
Acetophenone	96-86-2	0.010	9.7
2-Acetylaminofluorene	53-96-3	0.059	140
Acrolein	107-02-8	0.29	NA
Acrylamide	79-06-1	19	23
Acrylonitrile	107-13-1	0.24	84
Aldicarb sulfone[6]	1646-88-4	0.056	0.28
Aldrin	309-00-2	0.021	0.066
4-Aminobiphenyl	92-67-1	0.13	NA
Aniline	62-53-3	0.81	14
o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
Anthracene	120-12-7	0.059	3.4
Aramite	140-57-8	0.36	NA
α-BHC	319-84-6	0.00014	0.066
β-BHC	319-85-7	0.00014	0.066
δ-BHC	319-86-8	0.023	0.066
γ-BHC	58-89-9	0.0017	0.066
Barban[6]	101-27-9	0.056	1.4
Bendiocarb[6]	22781-23-3	0.056	1.4
Benomyl[6]	17804-35-2	0.056	1.4
Benz(a)anthracene	56-55-3	0.059	3.4
Benzal chloride	98-87-3	0.055	6.0
Benzene	71-43-2	0.14	10
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8

Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
Benzo(a)pyrene	50-32-8	0.061	3.4
Bromodichloromethane	75-27-4	0.35	15
Methyl bromide (Bromomethane)	74-83-9	0.11	15
4-Bromophenyl phenyl ether	101-55-3	0.055	15
n-Butyl alcohol	71-36-3	5.6	2.6
Butylate[6]	2008-41-5	0.042	1.4
Butyl benzyl phthalate	85-68-7	0.017	28
2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	88-85-7	0.066	2.5
Carbaryl[6]	63-25-2	0.006	0.14
Carbenzadim[6]	10605-21-7	0.056	1.4
Carbofuran[6]	1563-66-2	0.006	0.14
Carbofuran phenol[6]	1563-38-8	0.056	1.4
Carbon disulfide	75-15-0	3.8	4.8 mg/ℓ TCLP
Carbon tetrachloride	56-23-5	0.057	6.0
Carbosulfan[6]	55285-14-8	0.028	1.4
Chlordane (α and γ isomers)	57-74-9	0.0033	0.26
p-Chloroaniline	106-47-8	0.46	16
Chlorobenzene	108-90-7	0.057	6.0
Chlorobenzilate	510-15-6	0.10	NA
2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
p-Chloro-m-cresol	59-50-7	0.018	14
Chlorodibromomethane	124-48-1	0.057	15
Chloroethane	75-00-3	0.27	6.0
bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2
bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
2-Chloroethyl vinyl ether	110-75-8	0.062	NA
Chloroform	67-66-3	0.046	6.0
bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
Chloromethane (Methyl chloride)	74-87-3	0.19	30
2-Chloronaphthalene	91-58-7	0.055	5.6
2-Chlorophenol	95-57-8	0.044	5.7
3-Chloropropylene	107-05-1	0.036	30

Chrysene	218-01-9	0.059	3.4
p-Cresidine	120-71-8	0.010	0.66
o-Cresol	95-48-7	0.11	5.6
m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
m-Cumenyl methylcarbamate[6]	64-00-6	0.056	1.4
Cyclohexanone	108-94-1	0.36	0.75 mg/ℓ TCLP
o,p'-DDD	53-19-0	0.023	0.087
p,p'-DDD	72-54-8	0.023	0.087
o,p'-DDE	3424-82-6	0.031	0.087
p,p'-DDE	72-55-9	0.031	0.087
o,p'-DDT	789-02-6	0.0039	0.087
p,p'-DDT	50-29-3	0.0039	0.087
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Dibenz(a,e)pyrene	192-65-4	0.061	NA
1,2-Dibromo-3-chloropropane	96-12-8	0.11	15
1,2-Dibromoethane/Ethylene dibromide	106-93-4	0.028	15
Dibromomethane	74-95-3	0.11	15
m-Dichlorobenzene	541-73-1	0.036	6.0
o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Dichlorodifluoromethane	75-71-8	0.23	7.2
1,1-Dichloroethane	75-34-3	0.059	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
1,1-Dichloroethylene	75-35-4	0.025	6.0
trans-1,2-Dichloroethylene	156-60-5	0.054	30
2,4-Dichlorophenol	120-83-2	0.044	14
2,6-Dichlorophenol	87-65-0	0.044	14
2,4-Dichlorophenoxyacetic acid/2,4-D	94-75-7	0.72	10
1,2-Dichloropropane	78-87-5	0.85	18
cis-1,3-Dichloropropylene	10061-01-5	0.036	18
trans-1,3-Dichloropropylene	10061-02-6	0.036	18
Dieldrin	60-57-1	0.017	0.13
Diethyl phthalate	84-66-2	0.20	28

p-Dimethylaminoazobenzene	60-11-7	0.13	NA
2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66
2,4-Dimethyl phenol	105-67-9	0.036	14
Dimethyl phthalate	131-11-3	0.047	28
Di-n-butyl phthalate	84-74-2	0.057	28
1,4-Dinitrobenzene	100-25-4	0.32	2.3
4,6-Dinitro-o-cresol	534-52-1	0.28	160
2,4-Dinitrophenol	51-28-5	0.12	160
2,4-Dinitrotoluene	121-14-2	0.32	140
2,6-Dinitrotoluene	606-20-2	0.55	28
Di-n-octyl phthalate	117-84-0	0.017	28
Di-n-propylnitrosamine	621-64-7	0.40	14
1,4-Dioxane	123-91-1	12.0	170
Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	13
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	13
1,2-Diphenylhydrazine	122-66-7	0.087	NA
Disulfoton	298-04-4	0.017	6.2
Dithiocarbamates (total)[6]	137-30-4	0.028	28
Endosulfan I	959-98-8	0.023	0.066
Endosulfan II	33213-65-9	0.029	0.13
Endosulfan sulfate	1031-07-8	0.029	0.13
Endrin	72-20-8	0.0028	0.13
Endrin aldehyde	7421-93-4	0.025	0.13
EPTC[6]	759-94-4	0.042	1.4
Ethyl acetate	141-78-6	0.34	33
Ethyl benzene	100-41-4	0.057	10
Ethyl cyanide (Propanenitrile)	107-12-0	0.24	360
Ethylene oxide	75-21-8	0.12	NA
Ethyl ether	60-29-7	0.12	160
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
Ethyl methacrylate	97-63-2	0.14	160
Famphur	52-85-7	0.017	15
Fluoranthene	206-44-0	0.068	3.4
Fluorene	86-73-7	0.059	3.4

Formetanate hydrochloride[6]	23422-53-9	0.056	1.4
Heptachlor	76-44-8	0.0012	0.066
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025
Heptachlor epoxide	1024-57-3	0.016	0.066
Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachlorocyclopentadiene	77-47-4	0.057	2.4
HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063	0.001
Hexachloroethane	67-72-1	0.055	30
Hexachloropropylene	1888-71-7	0.035	30
Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
Iodomethane	74-88-4	0.19	65
Isobutyl alcohol	78-83-1	5.6	170
Isodrin	465-73-6	0.021	0.066
Isosafrole	120-58-1	0.081	2.6
Kepone	143-50-0	0.0011	0.13
Methacrylonitrile	126-98-7	0.24	84
Methanol	67-56-1	5.6	0.75 mg/ℓ TCLP
Methapyrilene	91-80-5	0.081	1.5
Methiocarb[6]	2032-65-7	0.056	1.4
Methomyl[6]	16752-77-5	0.028	0.14
Methoxychlor	72-43-5	0.25	0.18
3-Methylcholanthrene	56-49-5	0.0055	15
4,4-Methylene bis(2-chloroaniline)	101-14-4	0.50	30
Methylene chloride	75-09-2	0.089	30
Methyl ethyl ketone	78-93-3	0.28	36

Methyl isobutyl ketone	108-10-1	0.14	33
Methyl methacrylate	80-62-6	0.14	160
Methyl methansulfonate	66-27-3	0.018	NA
Methyl parathion	298-00-0	0.014	4.6
Metolcarb[6]	1129-41-5	0.056	1.4
Mexacarbate[6]	315-18-4	0.056	1.4
Molinate[6]	2212-67-1	0.042	1.4
Naphthalene	91-20-3	0.059	5.6
2-Naphthylamine	91-59-8	0.52	NA
o-Nitroaniline	88-74-4	0.27	14
p-Nitroaniline	100-01-6	0.028	28
Nitrobenzene	98-95-3	0.068	14
5-Nitro-o-toluidine	99-55-8	0.32	28
o-Nitrophenol	88-75-5	0.028	13
p-Nitrophenol	100-02-7	0.12	29
N-Nitrosodiethylamine	55-18-5	0.40	28
N-Nitrosodimethylamine	62-75-9	0.40	2.3
N-Nitroso-di-n-butylamine	924-16-3	0.40	17
N-Nitrosomethylethylamine	10595-95-6	0.40	2.3
N-Nitrosomorpholine	59-89-2	0.40	2.3
N-Nitrosopiperidine	100-75-4	0.013	35
N-Nitrosopyrrolidine	930-55-2	0.013	35
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (1,2,3,4,6,7,8,9-OCDD)	3268-87-9	0.000063	0.005
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (1,2,3,4,6,7,8,9-OCDF)	39001-02-0	0.000063	0.005
Oxamyl[6]	23135-22-0	0.056	0.28
Parathion	56-38-2	0.014	4.6
Total PCBs (sum of all PCB isomers, or all Aroclors)[8]	1336-36-3	0.10	10
Pebulate[6]	1114-71-2	0.042	1.4
Pentachlorobenzene	608-93-5	0.055	10
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035	0.001

Pentachloroethane	76-01-7	0.055	6.0
Pentachloronitrobenzene	82-68-8	0.055	4.8
Pentachlorophenol	87-86-5	0.089	7.4
Phenacetin	62-44-2	0.081	16
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
1,3-Phenylenediamine	108-45-2	0.010	0.66
Phorate	298-02-2	0.021	4.6
Phthalic acid	100-21-0	0.055	28
Phthalic anhydride	85-44-9	0.055	28
Physostigmine[6]	57-47-6	0.056	1.4
Physostigmine salicylate[6]	57-64-7	0.056	1.4
Promecarb[6]	2631-37-0	0.056	1.4
Pronamide	23950-58-5	0.093	1.5
Propham[6]	122-42-9	0.056	1.4
Propoxur[6]	114-26-1	0.056	1.4
Prosulfocarb[6]	52888-80-9	0.042	1.4
Pyrene	129-00-0	0.067	8.2
Pyridine	110-86-1	0.014	16
Safrole	94-59-7	0.081	22
Silvex (2,4,5-TP)	93-72-1	0.72	7.9
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063	0.001
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-5	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
Thiodicarb[6]	59669-26-0	0.019	1.4
Thiophanate-methyl[6]	23564-05-8	0.056	1.4
Toluene	108-88-3	0.080	10
Toxaphene	8001-35-2	0.0095	2.6
Triallate[6]	2303-17-5	0.042	1.4
Tribromomethane (Bromoform)	75-25-2	0.63	15
1,2,4-Trichlorobenzene	120-82-1	0.055	19

1,1,1-Trichloroethane	71-55-6	0.054	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0
Trichloromonofluoromethane	75-69-4	0.020	30
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
2,4,5-Trichlorophenoxyacetic acid/2,4,5-T	93-76-5	0.72	7.9
1,2,3-Trichloropropane	96-18-4	0.85	30
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
Triethylamine[6]	101-44-8	0.081	1.5
tris-(2,3-Dibromopropyl) phosphate	126-72-7	0.11	0.10
Vernolate[6]	1929-77-7	0.042	1.4
Vinyl chloride	75-01-4	0.27	6.0
Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
Antimony	7440-36-0	1.9	1.15 mg/ℓ TCLP
Arsenic	7440-38-2	1.4	5.0 mg/ℓ TCLP
Barium	7440-39-3	1.2	21 mg/ℓ TCLP
Beryllium	7440-41-7	0.82	1.22 mg/ℓ TCLP
Cadmium	7440-43-9	0.69	0.11 mg/ℓ TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/ℓ TCLP
Cyanides (Total)[4]	57-12-5	1.2	590
Cyanides (Amenable)[4]	57-12-5	0.86	30
Fluoride[5]	16984-48-8	35	NA
Lead	7439-92-1	0.69	0.75 mg/ℓ TCLP
Mercury-Nonwastewater from Retort	7439-97-6	NA	0.20 mg/ℓ TCLP
Mercury-All Others	7439-97-6	0.15	0.025 mg/ℓ TCLP
Nickel	7440-02-0	3.98	11 mg/ℓ TCLP
Selenium[7]	7782-49-2	0.82	5.7 mg/ℓ TCLP
Silver	7440-22-4	0.43	0.14 mg/ℓ TCLP
Sulfide	18496-25-8	14	NA
Thallium	7440-28-0	1.4	0.20 mg/ℓ TCLP
Vanadium[5]	7440-62-2	4.3	1.6 mg/ℓ TCLP
Zinc[5]	7440-66-6	2.61	4.3 mg/ℓ TCLP

[1] CAS means Chemical Abstract Services. When the waste code or regulated constituents are described as a combination of a chemical with its salts or esters, the CAS number is given for the parent compound only.

[2] Concentration standards for wastewaters are expressed in mg/ℓ are based on analysis of composite samples.

[3] Except for metals (EP or TCLP) and cyanides (total and amenable), the nonwastewater treatment standards expressed as a concentration were established, in part, based on incineration in units operated in accordance with the technical requirements of Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725 or on combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in Section 728.140(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

[4] Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010C or 9012B, in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/ SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

[5] These constituents are not “underlying hazardous constituents” in characteristic wastes, according to the definition at Section 728.102(i).

[6] This footnote corresponds with footnote 6 to the table to 40 CFR 268.48(a), which has already expired by its own terms. This statement maintains structural consistency with the corresponding federal regulations.

[7] This constituent is not an underlying hazardous constituent, as defined at Section 728.102(i), because its UTS level is greater than its TC level. Thus, a treated selenium waste would always be characteristically hazardous unless it is treated to below its characteristic level.

[8] This standard is temporarily deferred for soil exhibiting a hazardous characteristic due to USEPA hazardous waste numbers D004 through D011 only.

Note: NA means not applicable.

BOARD NOTE: Derived from table to 40 CFR 268.48(a) (2007)~~(2005)~~.

(Source: Amended at 32 Ill. Reg. 12840, effective July 14, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Standards for the Management of Used Oil

2) Code Citation: 35 Ill. Adm. Code 739

3)

Section Numbers:	Adopted Action:
739.110	Amended
739.111	Amended
739.143	Amended
739.144	Amended
739.145	Amended
739.152	Amended
739.155	Amended
739.159	Amended
739.164	Amended

4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27

5) Effective Date of Amendments: July 14, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendments, a copy of the Board's opinion and order adopted June 5, 2008 in docket R07-5/R07-14 (consolidated), 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: 32 Ill. Reg. 5904; April 11, 2008

10) Has JCAR issued a statement of objection to this rulemaking? No

11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated March 20, 2008, in docket R07-5/R07-14 (consolidated). Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: The amendments to Part 739 are a single segment of the consolidated docket R07-5/R07-14 rulemaking that also affects 35 Ill. Adm. Code 703, 720, 721, 722, 723, 724, 725, 726, 727, and 728, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R07-5/R07-14 rulemaking in this *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 June 5, 2008, proposing amendments in consolidated docket R07-5/R07-14, which opinion and order is available from the address below.

Specifically, the amendments to Part 739 implement segments of the federal amendments of July 14, 2006. The amendments include various USEPA corrections.

Tables appear in the Board's opinion and order of June 5, 2008 in docket R07-5/R07-14 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 5, 2008 opinion and order in docket R07-5/R07-14 (consolidated).

16) Information and questions regarding these adopted amendments shall be directed to:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601
312/814-6924

Please reference consolidated docket R07-5/R07-14.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Request copies of the Board's opinion and order of June 5, 2008 at 312-814-3620. Alternatively, you may 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:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 739
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section
739.100 Definitions

SUBPART B: APPLICABILITY

Section
739.110 Applicability
739.111 Used Oil Specifications
739.112 Prohibitions
739.113 Electronic Reporting

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section
739.120 Applicability
739.121 Hazardous Waste Mixing
739.122 Used Oil Storage
739.123 On-Site Burning in Space Heaters
739.124 Off-Site Shipments

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS
AND AGGREGATION POINTS

Section
739.130 Do-It-Yourselfer Used Oil Collection Centers
739.131 Used Oil Collection Centers
739.132 Used Oil Aggregate Points Owned by the Generator

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

AND TRANSFER FACILITIES

Section
739.140 Applicability
739.141 Restrictions on Transporters that Are Not Also Processors
739.142 Notification
739.143 Used Oil Transportation
739.144 Rebuttable Presumption for Used Oil
739.145 Used Oil Storage at Transfer Facilities
739.146 Tracking
739.147 Management of Residues

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section
739.150 Applicability
739.151 Notification
739.152 General Facility Standards
739.153 Rebuttable Presumption for Used Oil
739.154 Used Oil Management
739.155 Analysis Plan
739.156 Tracking
739.157 Operating Record and Reporting
739.158 Off-Site Shipments of Used Oil
739.159 Management of Residues

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section
739.160 Applicability
739.161 Restriction on Burning
739.162 Notification
739.163 Rebuttable Presumption for Used Oil
739.164 Used Oil Storage
739.165 Tracking
739.166 Notices
739.167 Management of Residues

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section
739.170 Applicability
739.171 Prohibitions
739.172 On-Specification Used Oil Fuel
739.173 Notification
739.174 Tracking
739.175 Notices

SUBPART I: DISPOSAL OF USED OIL

Section
739.180 Applicability
739.181 Disposal
739.182 Use As a Dust Suppressant

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 R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008.

SUBPART B: APPLICABILITY

Section 739.110 Applicability

This Section identifies those materials that are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under this Part, and indicates whether these materials may be subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728.

a) Used oil. Used oil is presumed to be recycled, unless a used oil handler disposes

of used oil or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.

b) Mixtures of used oil and hazardous waste.

1) Listed hazardous waste.

A) A mixture of used oil and hazardous waste that is listed in Subpart D of 35 Ill. Adm. Code 721 is subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728, rather than as used oil under this Part.

B) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. An owner or operator may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).

i) This rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. This presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.

ii) This rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. This rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

2) Characteristic hazardous waste. A mixture of used oil and hazardous waste that solely exhibits one or more of the~~a~~ hazardous waste characteristics~~characteristic~~ identified in Subpart C of 35 Ill. Adm. Code 721 and a mixture of used oil and hazardous waste that is listed in Subpart D of this Part solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 is subject to the following:

A) Except as provided in subsection (b)(2)(C) of this Section, regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721; or

B) Except as provided in subsection (b)(2)(C) of this Section, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721.

C) Regulation as used oil under this Part, if the mixture is of used oil and a waste that is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.

3) Conditionally exempt small quantity generator hazardous waste. A mixture of used oil and conditionally exempt small quantity generator hazardous waste regulated under 35 Ill. Adm. Code 721.105 is subject to regulation as used oil under this Part.

c) Materials containing or otherwise contaminated with used oil.

1) Except as provided in subsection (c)(2) of this Section, the following is true of a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible so that no visible signs of free-flowing oil remain in or on the material:

A) The material is not used oil, so it is not subject to this Part, and

B) If applicable, the material is subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728.

2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.

3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.

d) Mixtures of used oil with products.

1) Except as provided in subsection (d)(2) of this Section, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.

2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C of this Part.

e) Materials derived from used oil.

1) The following is true of materials that are reclaimed from used oil, which are used beneficially, and which are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants):

A) The materials are not used oil and thus are not subject to this Part, and

B) The materials are not solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).

2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.

3) Except as provided in subsection (e)(4) of this Section, the following is true of materials derived from used oil that are disposed of or used in a manner constituting disposal:

A) The materials are not used oil and thus are not subject to this Part, and

B) The materials are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728 if the materials are listed or identified as hazardous waste.

4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.

f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the federal Clean Water Act (including wastewaters at facilities that have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

g) Used oil introduced into crude oil pipelines or a petroleum refining facility.

1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.

2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining

process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Part.

3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than one percent of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of this Part.

4) Except as provided in subsection (g)(5) of this Section, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Part.

5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).

6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.

h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.

i) Used oil containing PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3 (Definitions), incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements

of 40 CFR 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is subject to regulation under federal 40 CFR 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

Section 739.111 Used Oil Specifications

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this Part unless it is shown not to exceed any of the allowable levels of the constituents and properties ~~in the specification~~ shown in the following table. Once used oil that is to be burned for energy recovery has been shown not to exceed any allowable level~~specification~~ and the person making that showing complies with Sections 739.172, 739.173, and 739.174(b), the used oil is no longer subject to this Part.

Used Oil Allowable~~Specification~~ Levels When Burned for Energy Recovery[1]

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100 ºF minimum
Total halogens	4,000 ppm maximum[2]

FOOTNOTE: [1] The allowable levels do~~specification does~~ not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see Section 739.110(b)).

FOOTNOTE: [2] Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under Section 739.110(b)(1). Such used oil is subject to Subpart H of 35 Ill. Adm. Code 726, rather than this Part, when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

Section 739.143 Used Oil Transportation

a) Deliveries. A used oil transporter must deliver all used oil received to one of the following:

1) Another used oil transporter, provided that the transporter has obtained a USEPA identification number and an Illinois special waste identification number;

2) A used oil processing facility that has obtained a USEPA identification number and an Illinois special waste identification number;

3) An off-specification used oil burner facility that has obtained a USEPA identification number and an Illinois special waste identification number; or

4) An on-specification used oil burner facility.

b) USDOT requirements. A used oil transporter must comply with all applicable USDOT requirements in 49 CFR 171 through 180. A person transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), must comply with all applicable USDOT Hazardous Materials Regulations in 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers − General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

c) Used oil discharges.

1) In the event of a discharge of used oil during transportation, the transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

2) If a discharge of used oil occurs during transportation and an official (State or local government or a federal agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by a transporter that does not have a USEPA identification number and an Illinois special waste identification number.

3) An air, rail, highway, or water transporter that has discharged used oil must do the following:

A) Give notice, if required by federal 49 CFR 171.15 (Immediate Notice of Certain Hazardous Materials Incidents), incorporated by reference in 35 Ill. Adm. Code 720.111(b), to the National Response Center (800-424-8802 or 202-426-2675); and

B) Report in writing as required by federal 49 CFR 171.16 (Detailed Hazardous Materials Incident Reports), incorporated by reference in 35 Ill. Adm. Code 720.111(b), to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

4) A water transporter that has discharged used oil must give notice as required by federal 33 CFR 153.203 (Procedure for the Notice of Discharge), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

5) A transporter must clean up any used oil discharge~~discharged~~ that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment.

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

Section 739.144 Rebuttable Presumption for Used Oil

a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the used oil transporter must determine whether the total halogen content of used oil being transported~~transporter~~ or stored at a transfer facility is above or below 1,000 ppm.

b) The transporter must make this determination by the following means:

1) Testing the used oil; or

2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).

1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.

2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs~~CFC~~ are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) of this Section must be maintained by the transporter for at least three years.

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

Section 739.145 Used Oil Storage at Transfer Facilities

A used oil transporter is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart E. A used oil transporter is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

a) Applicability. This Section applies to used oil transfer facilities. Used oil transfer facilities are transportation-related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. A transfer facility that store used oil for more than 35 days are subject to regulation under Subpart F of this Part.

b) Storage units. An owner or operator of a used oil transfer facility may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

c) Condition of units. The following must be true of containers and aboveground tanks used to store used oil at a transfer facility:

1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be leaking (no visible leaks).

d) Secondary containment for containers. Containers used to store used oil at a transfer facility must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the

dikes, berms, or retaining walls; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Secondary containment for new aboveground tanks. New aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

g) Labels.

1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil."

2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil."

h) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, an owner or operator of a transfer facility must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.45(h) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section 739.152 General Facility Standards

a) Preparedness and prevention. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:

1) Maintenance and operation of a facility. All facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water that could threaten human health or the environment.

2) Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in subsections (a)(2)(A) through (a)(2)(D) of this Section:

A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

C) Portable fire extinguishers, fire control equipment (including

special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

D) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

4) Access to communications or alarm system.

A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2) of this Section.

B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2) of this Section.

5) Required aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

6) Arrangements with local authorities.

A) The owner or operator must attempt to make the following

arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

B) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

b) Contingency plan and emergency procedures. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:

1) Purpose and implementation of contingency plan.

A) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air,

soil, or surface water.

B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil that could threaten human health or the environment.

2) Content of contingency plan.

A) The contingency plan must describe the actions facility personnel must take to comply with subsections (b)(1) and (b)(6) of this Section in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.

B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112 or 40 CFR 300, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.

C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) of this Section.

D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) of this Section), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

E) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item

on the list, and a brief outline of its capabilities.

F) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).

3) Copies of contingency plan. Copies of the contingency plan and all revisions to the plan must be disposed of as follows:

A) Maintained at the facility; and

B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

4) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever one of the following occurs:

A) Applicable regulations are revised;

B) The plan fails in an emergency;

C) The facility changes − in its design, construction, operation, maintenance, or other circumstances − in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

D) The list of emergency coordinators changes; or

E) The list of emergency equipment changes.

5) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This

emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: USEPA cited the following as guidance: "The emergency coordinator's responsibilities are more fully spelled out in [subsection (b)(6) of this Section]. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility."

6) Emergency procedures.

A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately do the following:

i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

ii) Notify appropriate State or local agencies with designated response roles if their help is needed.

B) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal~~a real~~ extent of any released materials. He or she may do this by observation or review of facility records or~~of~~ manifests and, if necessary, by chemical analyses~~analysts~~.

C) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or~~of~~ chemical agents used to control fire and heat-

induced explosions).

D) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, he or she must report his findings as follows:

i) If his assessment indicated that evacuation of local areas may be advisable, he or she must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and

ii) He must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: name and telephone number of reporter; name and address of facility; time and type of incident (e.g., release, fire); name and quantity of materials involved, to the extent known; the extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.

E) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

G) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil,

contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

H) The emergency coordinator must ensure that the following occur, in the affected areas of the facility:

i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

iii) The owner or operator must notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) of this Section before operations are resumed in the affected areas of the facility.

I) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it must submit a written report on the incident to USEPA Region 5. The report must include the following:

i) The name, address, and telephone number of the owner or operator;

ii) The name, address, and telephone number of the facility;

iii) The date, time, and type of incident (e.g., fire, explosion);

iv) The name and quantity of materials involved;

v) The extent of injuries, if any;

vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

vii) The estimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

Section 739.155 Analysis Plan

An owner or operator of a used oil processing or re-refining facility must develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of Section 739.153 and, if applicable, Section 739.172. The owner or operator must keep the plan at the facility.

a) Rebuttable presumption for used oil in Section 739.153. At a minimum, the plan must specify the following:

1) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination;

2) If sample analyses are used to make this determination, the following requirements must be fulfilled:

A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either of the following:

i) One of the sampling methods in Appendix I of 35 Ill. Adm. Code 721; or

ii) A method shown to be equivalent under 35 Ill. Adm. Code 720.120 and 720.121;

B) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

C) The methods used to analyze used oil for the parameters specified in Section 739.153; and

3) The type of information that will be used to determine the halogen content

of the used oil.

b) On-specification used oil fuel in Section 739.172. At a minimum, the plan must specify the following if Section 739.172 is applicable:

1) Whether sample analyses or other information will be used to make this determination;

2) If sample analyses are used to make this determination, the following must be specified:

A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either of the following:

i) One of the sampling methods in Appendix I of 35 Ill. Adm. Code 721; or

ii) A method shown to be equivalent under 35 Ill. Adm. Code 720.120 and 720.121;

B) Whether used oil will be sampled and analyzed prior to or after any processing;

C) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

D) The methods used to analyze used oil for the parameters specified in Section 739.172; and

3) The type of information that will be used to make the on-specification used oil fuel determination.

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

Section 739.159 Management of Residues

An owner or operator that generates residues from the storage, processing, or re-refining~~re-fining~~ of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section 739.164 Used Oil Storage

A used oil burner is subject to all applicable Spill Prevention, Control and Countermeasures (federal 40 CFR 112) in addition to the requirements of this Subpart G. A used oil burner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart G.

a) Storage units. A used oil burner may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Condition of units. The following must be true of containers and aboveground tanks used to store used oil at a burner facility:

1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be leaking (no visible leaks).

c) Secondary containment for containers. Containers used to store used oil at a burner facility must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Dikes, berms, or retaining walls; and

B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil,

groundwater, or surface water.

d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e) Secondary containment for new~~existing~~ aboveground tanks. A new aboveground tank used to store used oil at burner facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Labels.

1) A container or aboveground tank used to store used oil at a burner facility must be labeled or marked clearly with the words "Used Oil."

2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil."

g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a burner must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.64(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 32 Ill. Reg. 13047, effective July 14, 2008)

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

1) Heading of the Part: Special Education Facilities Under Section 14-7.02 of the School Code

2) Code Citation: 23 Ill. Adm. Code 401

3)

Section Numbers:	Emergency Action:
401.10	Repeal of Emergency Amendment
401.30	Repeal of Emergency Amendment
401.210	Repeal of Emergency Amendment

4) Statutory Authority: 105 ILCS 5/14-7.02 and 14-8.01

5) Effective Date of Repealer: July 16, 2008

6) If this emergency repealer is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency repealer expires concurrently with the expiration of the 150-day period of the emergency amendments it is repealing.

7) Date Filed with the Index Department: July 16, 2008

8) A copy of the emergency repealer of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: The State Board of Education acknowledges that, in light of circumstances that occurred after the agency's adoption of the emergency amendments, no emergency situation actually was determined to exist. The agency did not implement the emergency provisions. The agency is repealing the emergency amendments with immediate effect so that the similar ordinary rulemaking on the same subject may be considered in due course.

10) A Complete Description of the Subjects and Issues Involved: On June 17, 2008, the Joint Committee objected to and suspended the emergency amendments to these rules that had taken effect on March 21. The Joint Committee stated that the Board had not shown the existence of any emergency situation, basing this conclusion on the fact that the Board had not acted to remove the approval of the special education facility in question as had been intended when the emergency amendments were filed.

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

It is correct that ISBE did not implement the emergency provisions after they took effect. Instead, factors related to the needs of the Illinois student who was attending the program at the out-of-state facility led the agency to delay the revocation of the program's approval. In hindsight, the emergency rulemaking did prove unnecessary.

11) Are there any proposed amendments pending on this Part? Yes. Proposed amendments were published on April 4, 2008, at 32 Ill. Reg. 4705.

12) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.

13) Information and questions regarding this emergency repeal of emergency amendments shall be directed to:

Elizabeth Hanselman
Assistant Superintendent for Special Education
State Board of Education
100 North First Street
Springfield, Illinois 62777

The full text of the Emergency Repeal of the Emergency Amendments begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER l: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 401
SPECIAL EDUCATION FACILITIES UNDER
SECTION 14-7.02 OF THE SCHOOL CODE

SUBPART A: APPROVAL OF PROGRAMS

Section
401.5 Definitions
401.10 Application for Eligibility
EMERGENCY
401.20 Notification Requirements
401.30 Changes in Approval Status
EMERGENCY

SUBPART B: PLACEMENT AND EDUCATION OF STUDENTS

Section
401.110 Use by School Districts
401.120 Placement Procedures
401.130 Operating Schedule
401.140 Provision of Educational Program
401.145 Administration of State Assessment
401.150 Classroom Records

SUBPART C: OPERATIONAL REQUIREMENTS

Section
401.210 General Requirements
EMERGENCY
401.220 Health and Safety Requirements
401.230 Student Progress Reports and Reviews
401.240 Staffing Requirements
401.250 Staff Training
401.260 Staff Records

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

401.270 Student Records
401.280 Fiscal Provisions

AUTHORITY: Implementing and authorized by Sections 14-7.02 and 14-8.01 of the School Code [105 ILCS 5/14-7.02 and 14-8.01].

SOURCE: Adopted July 25, 1973; emergency amendment at 4 Ill. Reg. 39, p. 323, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 4576, effective April 9, 1981; codified at 7 Ill. Reg. 14966; Part repealed, new Part adopted at 19 Ill. Reg. 7185, effective May 10, 1995; amended at 30 Ill. Reg. 8818, effective April 25, 2006; amended at 31 Ill. Reg. 14050, effective September 24, 2007; emergency amendment at 32 Ill. Reg. 4843, effective March 21, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 9764, effective June 17, 2008; suspension withdrawn at 32 Ill. Reg. 13093, effective July 16, 2008; emergency amendments repealed by emergency rulemaking at 32 Ill. Reg. 13079, effective July 16, 2008, for the remainder of the 150 days.

SUBPART A: APPROVAL OF PROGRAMS

Section 401.10 Application for Eligibility
EMERGENCY

Each provider seeking to become eligible to contract with Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] shall be subject to the program approval process described in this Section. Approval shall be specific to individual programs offered by a provider, and the same type of program conducted at two separate facilities shall be treated as two separate programs for purposes of approval. A program not approved in accordance with the requirements of this Part shall not be used by school districts to serve students with disabilities under Section 14-7.02 of the School Code.

a) An application for initial approval of educational programs and/or residential programs, presented on forms supplied by the State Superintendent of Education and containing all the items enumerated in this subsection (a), shall be submitted to the State Superintendent. Each application shall include:

1) An accurate, written description of each program for which approval is requested, which shall indicate the categories and ages of students with disabilities for whom it is specifically intended, the data that will be collected on the outcomes achieved by those students, which must reflect the students' learning goals as described in their respective IEPs, and the

maximum number of students the program is intended to accommodate.

2) A written plan for the administration and organization of the programs, including but not limited to:

A) The stated purpose and scope of the facility and its programs;

B) A plan for the allocation of space solely for program purposes; and

C) An organizational chart that reflects the provider's governance, administrative, and educational structures.

3) The provider's proposed calendar for the program for which approval is sought, setting forth an operating schedule reflecting at least 176 days of operation, for at least five hours per school day during the regular school year and, with respect to a summer session, if any is to be offered, at least 120 hours of operation if the facility is located in Illinois or, if the facility is located in another state, the number of hours approved by the responsible authority in that state.

4) A copy of the State Fire Marshal's most recent inspection report for the facility, which shall be no more than 24 months old at the time of application and shall indicate no violations, or, as applicable:

A) for an Illinois facility that is subject to the provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools), the report of the regional superintendent's most recent inspection conducted pursuant to Section 3-14.21 of the School Code [105 ILCS 5/3-14.21]; or

B) for an out-of-state facility, equivalent, current documentation of compliance with applicable state fire codes, or if there is no state fire code the applicable local fire code, clearly identifying the issuing authority.

5) Assurances, signed by the facility's chief administrator, conveying such information as the State Superintendent of Education may require regarding the facility's compliance with other applicable federal, state, and local laws, ordinances, and regulations (such as public health and safety

codes, building codes, and licensure requirements).

6) If the facility is located in Illinois and offers a residential component, evidence of the facility's current licensure or approval by the responsible agency of Illinois government, if applicable.

7) If the facility is located outside Illinois, evidence of the facility's current licensure, certification, or approval to operate its educational and/or residential programs in the state where it is located, including a copy of the standards or criteria used by the responsible agency in that state.

8) For instructional programs, summary information about all professional staff positions, and copies of the relevant credentials of persons employed in those positions, which demonstrate that the facility has sufficient staff available who are qualified pursuant to the requirements of Section 401.240 of this Part in order to operate the program.

9) For instructional programs, summaries of related services provided by the facility's professional staff or available to the provider under contract, demonstrating that the provider has sufficient related services available to operate the program.

10) For programs serving students for whom behavioral interventions may be appropriate, a description of the provider's formalized approach to the use of these interventions, subject to the limitation stated in Section 401.140(a)~~401.210(b)~~ of this Part.

b) If the application is complete and the facility is located in Illinois or within 50 miles of Illinois, State Board staff shall conduct an on-site review and evaluate the facility and the programs offered for the purpose of verifying the accuracy of the application, evaluating their conformance with the other requirements of this Part, and recommending approval or disapproval of the programs.

1) An out-of-state program conducted more than 50 miles outside of Illinois shall be approved without a site visit from an Illinois representative if:

A) the educational program is an approved special education program in the state where the facility is located and this approval was

granted in light of the information gathered during a site visit by a representative of the responsible agency;

B) the residential component, if any, is licensed by the responsible agency in the state where the facility is located; and

C) the application provides evidence that the requirements of Section 410.140 of this Part will be met.

2) An out-of-state program conducted more than 50 miles outside of Illinois that was approved in the state where the facility is located without a site visit by the responsible agency shall be visited by a representative of the Illinois State Board of Education in order to verify the accuracy of the application and determine whether the requirements of this Part have been met so that Illinois approval can be granted.

c) A program determined to comply with the requirements of this Part shall be designated as "Approved" and shall be available to Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code beginning on the day the application is approved, provided that the other requirements of Section 401.110 of this Part have also been met. The provider operating the facility shall be notified in writing of the date of program approval.

1) Initial approval shall end on the last day of the program's approved calendar for the school year in question, unless approval is changed pursuant to Section 401.30 of this Part.

2) A program shall serve only the specific student populations described in the approved application.

d) The nonapproval of an initial application shall include a notice of the specific deficiencies that caused the nonapproval and the opportunity for the provider to request a hearing pursuant to the Illinois Administrative Procedure Act [5 ILCS 100] and the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475).

e) An application for renewal of approval, consisting of all the components set forth in subsection (a) of this Section, must be submitted for any subsequent period in which a provider seeks to contract with Illinois public school districts to serve

students with disabilities in the facility under Section 14-7.02 of the School Code. The submission deadline shall be the April 15 prior to the beginning of the school year in question. If April 15 is not a business day, the deadline shall fall on the next business day. The approval process for any such subsequent period may also involve on-site reviews, at the sole discretion of the State Superintendent of Education.

1) The denial of an application for renewal of approval shall cause the program approval status to change to "nonapproved" subject to the procedures set forth in Section 401.30(c) of this Part.

2) Renewed approval granted for the 2006-2007 school year or later shall generally be valid for two school years, ending on the last day of the program's approved calendar for the second school year, unless approval is changed pursuant to Section 401.30 of this Part. However, the State Superintendent of Education shall approve approximately half the renewal applicants for the 2006-2007 school year for one year only, in order to stagger the two-year renewal process for subsequent periods.

   A) Applications shall be selected at random, provided that, once one program offered by a particular provider has been selected, all that provider's programs will be placed on the same renewal schedule.

   B) The first renewal of approval for a new program offered by a provider that already operates other approved programs shall be granted for the number of years that will place it on the cycle already established for that provider.

3) A program shall not be eligible for two-year renewed approval if it was not approved for the immediately preceding year, or if it was approved "pending further review" at any time during the immediately preceding period of approval. Applications for approval of such programs shall be treated as for initial approval.

(Source: Amended at 31 Ill. Reg. 14050, effective September 24, 2007)

Section 401.30 Changes in Approval Status
EMERGENCY

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

Programs approved to serve students with disabilities under Section 14-7.02 of the School Code, whether located in Illinois or out of state, shall be evaluated periodically by the State Board of Education. Such evaluation may take place for any reason, with or without prior notice to the provider, and at the sole discretion of the State Board of Education and may or may not involve an on-site review. Such evaluation shall result in either retention of approved status or assignment of one of the following.

a) A status of "Approved with Administrative Review" shall be assigned when an instance of noncompliance by an approved program is first identified during a school year and the State Superintendent determines that such noncompliance does not substantially affect the safety of, or provision of appropriate education to, the students enrolled. The provider shall have 60 calendar days to remedy the noncompliance.

1) No more than 30 calendar days after notification that it is approved with administrative review, an affected provider shall file with the State Superintendent of Education a progress report describing actions taken to correct the instances of noncompliance identified.

2) If the State Superintendent determines that the provider has corrected the instances of noncompliance within the time allotted, the program's "Approved" status shall be restored.

3) If the State Superintendent determines that the provider has failed to correct the instances of noncompliance within the time allotted, the provider shall not accept any new students from public school districts into the affected programs, nor shall it be approved for any programs for the next school year unless the noncompliance has been resolved.

b) A status of "Pending Further Review" shall be assigned whenever a program is determined to be in noncompliance with one or more requirements of this Part that may substantially affect the safety of or provision of appropriate education to students but that does not constitute imminent danger, or exhibits recurrent instances of minor noncompliance. The provider shall have 30 calendar days to remedy the noncompliance.

1) No more than seven calendar days after receipt of notification from the State Superintendent of Education that program approval status is pending further review, an affected provider shall submit a written report to the

State Superintendent describing its plans for correcting the noncompliance identified and the actions taken to correct it.

2) If the provider demonstrates that it has corrected the instances of noncompliance within the time allotted, its "Approved" status shall be restored.

3) If the provider fails to demonstrate that it has corrected the instances of noncompliance within the time allotted, its status shall be changed to "Nonapproved."

4) A provider that is subject to the requirements of this Part shall not accept any new students from public school districts into any program whose status is "Pending Further Review" and public school districts shall not make new placements into such programs. Upon notification of the designation of "Pending Further Review" status, a public school district shall identify alternative arrangements for its students in the program, for implementation in the event that the State Superintendent of Education notifies the district that the violations are not remedied. Notification of "Pending Further Review" status shall not be used as a basis for removing students from the program by the public school district.

c) A status of "Nonapproved" shall be assigned to a program or programs previously assigned a status of "Approved with Administrative Review" or "Pending Further Review" when the nonpublic facility or any of its programs exhibits substantial and/or recurrent instances of noncompliance, showing that the provider is consistently unable to meet the approval requirements of this Part. A program may be determined "Nonapproved" without previously having been assigned a status of "Approved with Administrative Review" or "Pending Further Review," if ~~use of a behavioral intervention strategy relying upon pain as an intentional method of control is utilized by any program operated at the facility, if~~ any ~~other~~ instances of noncompliance that present imminent danger to the students exist~~,~~ or if the State Superintendent verifies that the provider has unilaterally and intentionally ceased providing appropriate education pursuant to a school district's contracts and one or more students' IEPs.

1) A status of "Nonapproved" voids the provider's eligibility to contract with Illinois public school districts to serve students and receive funds under Section 14-7.02 of the School Code in the nonapproved programs for the

remainder of that school year.

2) Providers shall be given ten business days' notice by the State Superintendent before nonapproval becomes effective, unless imminent danger to students precludes such notice. The State Superintendent shall also give ten business days' notice to affected school districts to enable them to implement other arrangements prior to the effective date of nonapproval, as required.

3) The provider of any previously approved program placed on nonapproved status shall be afforded an opportunity for a hearing pursuant to the Illinois Administrative Procedure Act and the State Board's rules for Contested Cases and Other Formal Hearings. Unless the State Superintendent identifies that the reasons for nonapproved status are a danger to student health or safety, a request for a hearing shall stay the effect of the change in status and the program shall remain approved pending the hearing.

d) Any provider whose license or approval to operate a residential program is revoked shall immediately have its residential programs nonapproved and will be ineligible to provide residential services to students under Section 14-7.02 of the School Code.

e) Any out-of-state provider whose license or approval to operate a program is revoked by the responsible authority in the state where its facility is located shall immediately have its affected programs nonapproved and will be ineligible to contract with Illinois public school districts to serve students under Section 14-7.02 of the School Code.

f) Nonapproval of a program during a school year shall be cause for termination of all the provider's contracts with Illinois school districts for that program, and the provider shall be ineligible to contract with Illinois public school districts for the nonapproved program for the remainder of the school year in question.

(Source: Amended at 30 Ill. Reg. 8818, effective April 25, 2006)

SUBPART C: OPERATIONAL REQUIREMENTS

Section 401.210 General Requirements
EMERGENCY

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

a) Every provider with one or more facilities or programs subject to this Part shall maintain the written program descriptions and the educational administration and organization plans described in Section 401.10 of this Part, as well as the current, approved application for each affected program, and shall make these available to the public schools, parents and guardians of students, and other interested individuals and organizations upon request.

b) ~~Every provider subject to this Part shall maintain a written policy indicating that the use of behavioral intervention strategies that rely upon pain as an intentional method of control will not be applied to any student.c)~~Every provider subject to this Part shall maintain copies of this Part and the State Board's rules for Special Education (23 Ill. Adm. Code 226) and make these available to staff and parents or guardians of students enrolled, so that these parties may be aware of rules that pertain to the education of students with disabilities served under Section 14-7.02 of the School Code.

c)~~d)~~ Every provider subject to this Part shall maintain a separate and current roster of students served in that provider's facility and programs pursuant to Section 14-7.02 of the School Code.

d)~~e)~~ Every provider subject to this Part shall maintain records of and report changes in its administration, staff, instructional programs, and physical facilities, as required pursuant to Section 401.20 of this Part.

e)~~f)~~ All facilities, programs, and records required, established, or maintained pursuant to this Part shall be made available by the provider at any time, with or without prior notification, for inspection and evaluation by official representatives of the State Board of Education.

(Source: Amended at 30 Ill. Reg. 8818, effective April 25, 2006)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

ILLINOIS COMMERCE COMMISSION

Heading of the Part: Electric Interconnection of Distributed Generation Facilities

Code Citation: 83 Ill. Adm. Code 466

Section Numbers:

466.10	466.70	466.120	APPENDIX C
466.30	466.80	466.130	APPENDIX D
466.40	466.90	466.140	APPENDIX E
466.50	466.100	APPENDIX A	APPENDIX F
466.60	466.110	APPENDIX B	APPENDIX G

Date Originally Published in the Illinois Register: 4/18/08
32 Ill. Reg. 6173

At its meeting on July 15, 2008, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that ICC consider amending its rulemaking titled Electric Interconnection of Distributed Generation Facilities (83 Ill. Adm. Code 466; 32 Ill. Reg. 6173) to require external electric distribution companies to track their use of disconnect switches and to provide results to the Commission on a monthly basis.

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
EMERGENCY RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Child Health Examination Code

Code Citation: 77 Ill. Adm. Code 665

Section Numbers: 665.10 665.20
665.30 665.40
665.50

Date Originally Published in the Illinois Register: 6/20/08
32 Ill. Reg. 9055

At its meeting on July 15, 2008, the Joint Committee on Administrative Rules objected to the Department of Public Health's use of emergency rulemaking to adopt rules titled Child Health Examination Code (77 Ill. Adm. Code 665; 32 Ill. Reg. 9055) because the only emergency that exists in this instance appears to be agency created. The Public Act requiring the affected eye exams was effective 1/1/08, yet DPH waited over 6 months to adopt the emergency rule.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

WITHDRAWAL OF SUSPENSION OF EMERGENCY RULE

STATE BOARD OF EDUCATION

Heading of the Part: Special Education Facilities Under Section 14-7.02 of the School Code

Code Citation: 23 Ill. Adm. Code 401

Section Numbers: 401.10 401.30 401.210

Date Originally Published in Illinois Register: 4/4/08
32 Ill. Reg. 4843

Date Suspension Published in Illinois Register: 7/7/08
32 Ill. Reg. 9764

Date Suspension Became Effective: 6/17/08

Date Suspension Withdrawn: The withdrawal is effective on the effective date of the State Board of Education's repeal of the emergency rule.

At its meeting on 7/15/08, based on the State Board of Education's offer to repeal its emergency rule titled Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401; 32 Ill. Reg. 4843), the Joint Committee on Administrative Rules voted to withdraw its Suspension of the emergency rule, effective on the effective date of SBE's repeal of the emergency rule.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 15, 2008 through July 21, 2008 and have been scheduled for review by the Committee at its August 19, 2008 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
8/27/08	Department of Natural Resources, Duck, Goose and Coot Hunting (17 Ill. Adm. Code 590)	5/23/08 32 Ill. Reg. 7858	8/19/08
8/27/08	Illinois Law Enforcement Training and Standards Board, Illinois Police Training Act (20 Ill. Adm. Code 1720)	5/9/08 32 Ill. Reg. 7250	8/19/08
8/31/08	Department of Financial and Professional Regulation, Environmental Health Practitioner Licensing Act (68 Ill. Adm. Code 1247)	4/18/08 32 Ill. Reg. 6301	8/19/08
8/31/08	Department of Financial and Professional Regulation, Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act (68 Ill. Adm. Code 1485)	4/18/08 32 Ill. Reg. 6323	8/19/08
9/3/08	Drycleaner Environmental Response Trust Fund Council, General Program (35 Ill. Adm. Code 1500)	4/18/08 32 Ill. Reg. 6268	8/19/08

PROCLAMATIONS

2008-286
Disability Pride Day

WHEREAS, we recognize that all people, including those living with a disability, have the right and responsibility to be active contributing members of our society, fully engaged as citizens: to be educated, to be productive members of our workforce, to raise families, and to have equal opportunity to access all facets of life; and

WHEREAS, people with disabilities aspire to embrace their rich historical and cultural heritage and to promote the belief in society that disability is a natural and beautiful part of human diversity; and

WHEREAS, 18 years ago, on July 26, 1990, the Americans with Disabilities Act (ADA) was signed to end discrimination and provide equal opportunity for persons with disabilities in employment, government services, public accommodations, commercial facilities, transportation; and

WHEREAS, this July 26, 2008, a Saturday, is Chicago's 5th Annual Disability Pride Parade, celebrating with joy the first and oldest Disability Pride Parade, with the awareness that the mission is to change the way people think about and define disability, by promoting the belief in society that disability is a natural and beautiful part of human diversity, in which people living with disabilities can take pride:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 26, 2008 as **DISABILITY PRIDE DAY** in Illinois in recognition of the hard work of the parade organizers and invite all people to join in celebrating the pride, the accomplishments, and the potential of people living with disabilities.

Issued by the Governor July 11, 2008
Filed by the Secretary of State July 18, 2008

2008-287
Science Day

WHEREAS, science is an essential and vital field of study. It helps answer critical questions such as how we think and behave, what happened in the past, and what comprises the universe; and

WHEREAS, science is a fundamental part of a child's education in Illinois and is very important to our state's future and economic development; and

WHEREAS, the children of Illinois deserve the best science education possible and Illinois is dedicated to improving the quality of science education in order to keep our children competitive in the world; and

WHEREAS, parents, guardians, and other community members are encouraged to take science beyond the classroom window, to honor science educators in their community, and to recognize the importance of science in the classroom and community:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 3, 2008 as **SCIENCE DAY** in Illinois, and encourage all citizens to recognize the importance of science in our children's future.

Issued by the Governor July 11, 2008
Filed by the Secretary of State July 18, 2008

2008-288
Week of the Classroom Teacher

WHEREAS, the education of our children is critical to their future success. For that reason, teaching is one of the most important professions; and

WHEREAS, throughout Illinois, we entrust the care of our children to thousands of classroom teachers who work with parents and administrators to ensure that each child learns the skills they need to succeed; and

WHEREAS, that is not easy when there are many distractions. In addition to contending with personal and family problems that have always accompanied children, classroom teachers now have to compete with technology such as cell phones, computers, and television; and

WHEREAS, indeed, it is more difficult than ever to engage children in the classroom today. Consequently, teachers must work harder than ever to educate children; and

WHEREAS, in acknowledgment and recognition of their outstanding service, the Association for Childhood Education International annually designates a week in honor of classroom teachers; and

WHEREAS, this year, the Week of the Classroom Teacher will begin October 5:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 5-11, 2008 as **WEEK OF THE CLASSROOM TEACHER** in Illinois, and join the Association for Childhood Education International in honoring and thanking classroom teachers for their commitment and dedication to teaching our children.

Issued by the Governor July 14, 2008
Filed by the Secretary of State July 18, 2008

2008-289
Chicago International Children's Film Festival Days

WHEREAS, 2008 marks the 25th annual Chicago International Children's Film Festival (CICFF); and

WHEREAS, CICFF is a project of Facets Multi-Media, a nonprofit organization dedicated to the exhibition and distribution of foreign, independent, and classic films; and

WHEREAS, Facets Muti-Media has received support for CICFF and other children's programs from over 50 corporations and businesses, national and international organizations, and print and broadcast media; and

WHEREAS, receiving over 700 entries, CICFF operates a dynamic market for domestic and foreign buyers, distributors, and festival programmers, welcoming representatives from over 20 international media organizations; and

WHEREAS, additionally, CICFF is the only children's film festival to be named by the Academy of Motion Picture Arts and Sciences as an Academy Qualifying Festival; and

WHEREAS, this year, CICFF will be held from October 23 to November 2, and more than 26,000 Chicago children, adults, and educators are expected to attend the screenings, in addition to more than 150 celebrities and filmmakers from around the world:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 23 – November 2, 2008 as **CHICAGO INTERNATIONAL CHILDREN'S FILM FESTIVAL DAYS** in Illinois in celebration of the Chicago International Children's Film Festival, which has become an annual tradition anticipated by citizens from all around the state.

Issued by the Governor July 14, 2008
Filed by the Secretary of State July 18, 2008

2008-290
Principals Week and Principals Day

WHEREAS, principals play an important role in the education of our children in elementary, middle, and secondary schools all across the State of Illinois; and

WHEREAS, principals are responsible for promoting education and working with parents and teachers to ensure that each child receives services that meet their needs to excel in the classroom; and

WHEREAS, the Illinois Principals Association, which represents 4,400 principals statewide, believes that learning is a lifelong process and that the education of our children is the highest priority; and

WHEREAS, for that reason, the Illinois Principals Association is dedicated to the improvement of elementary and secondary education in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim the week of October 5-11, 2008 as **PRINCIPALS WEEK** and October 10, 2008 as PRINCIPALS DAY in Illinois to recognize principals and the Illinois Principals Association for all that they do to help our children learn and succeed.

Issued by the Governor July 15, 2008
Filed by the Secretary of State July 18, 2008

2008-291
Women's Track and Field Day

WHEREAS, long before today's young female track and field athletes competing in the Olympic Games in Beijing, China were born, the CYO (Catholic Youth Organization), CC (Chicago Comets) and MDYF (Mayor Daley Youth Foundation) were going strong; and

WHEREAS, long before there was Title IX, passed in 1972, which legislated the elimination of gender bias wherever public funding is utilized, there were future female track stars competing in Chicago; and

WHEREAS, beginning in 1948 and continuing until the fall of 1978, the CYO, CC, and MDYF provided limitless opportunities for young females aspiring to compete in track and field in Chicago; and

WHEREAS, over a thirty-year period, these three teams produced numerous local, national and international track stars, who in many instances became Olympic champions. But regardless of whether they are Olympic champions or not, in the eyes of the community, they are all champions to this day; and

WHEREAS, talent was abundant among these young athletes. Mabel Landry and Barbara Jones, two early pioneers, were teammates on the CYO track teams, and both went on to compete in the 1952 Olympic Games; and

WHEREAS, later came along jumper Willye "Red" White, Ernestine Pollard, Maren Seidler and Mamie "Stix" Rallins. Each of these young women also competed in the Olympics, with Willye making the trek five times (1956, 1960, 1964, 1968 and1972), becoming the only athlete ever to do so; and

WHEREAS, during this thirty year period, being a member of one of these three teams, these outstanding athletes received the necessary guidance, instruction and attention that allowed them to develop into self-assured and competent contributors to society; and

WHEREAS, they continued on to become teachers, coaches, administrators, a senior bank vice-president, authors, police officers, athletic directors, mothers and wives; and

WHEREAS, as Chicago continues its' bid to host the 2016 Olympic Games, one must take note that since the 1976 Olympic Games, when former MDYF team member Rosalyn Bryant competed, Chicago has not had a local female participant in track & field representing a Chicago athletic club; and

WHEREAS, on Friday, July 25, more than thirty years after the last race was run by any team member, these women will re-unite:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 25, 2008 as **WOMEN'S TRACK AND FIELD DAY** in Illinois, in recognition of the extraordinary contributions of these women.

Issued by the Governor July 15, 2008
Filed by the Secretary of State July 18, 2008

2008-292
Days to Commemorate the Honorable Virginia Macdonald

WHEREAS, former member of the Illinois General Assembly Virginia Macdonald, a loyal and dedicated public servant to Illinois, passed away on Saturday, July 12 at the age of 87; and

WHEREAS, born in El Paso, Texas, The Honorable Virginia Macdonald attended the University of New Mexico, where she met her late husband, Alan; and

WHEREAS, the couple moved to Evanston, where The Honorable Virginia Macdonald became involved in a number of causes. In 1953 they moved to Arlington Heights; and

WHEREAS, The Honorable Virginia Macdonald volunteered for Dwight Eisenhower's re-election campaign in 1956 and Richard Nixon's unsuccessful bid for the presidency in 1960. She also worked on the campaigns of Sens. Everett Dirksen and Charles Percy, acting as Dirksen's state director of the Women Volunteers for Everett Dirksen during his 1968 Senate bid; and

WHEREAS, before serving in the legislature, The Honorable Virginia Macdonald chaired the Cook County Republicans and served as a delegate to the 1970 state Constitutional Convention, where she was the only woman who was a member of the Bill of Rights Committee that created the state's Equal Rights provision; and

WHEREAS, The Honorable Virginia Macdonald served in the Illinois House of Representatives from 1972 to 1982, before moving to the Illinois Senate from 1982 until 1992. In 1973 she was one of just 8 women in the then 177-member House and one of 11 women in the 236-member General Assembly; and

WHEREAS, over the course of her life, The Honorable Virginia Macdonald made Illinois a better place and has left behind a legacy that will continue to resonate in the state for many years to come. She will be deeply missed by all who had the opportunity to know her; and

WHEREAS, funeral services for The Honorable Virginia Macdonald, who is survived by her daughter Susan (John) Van Bramer and son Alan H. Macdonald Jr., as well as five grandchildren, will be held Thursday, July 17:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 16-17, 2008 as **DAYS TO COMMEMORATE THE HONORABLE VIRGINIA MACDONALD** in Illinois, and order all state facilities to fly flags at half-staff from sunrise on July 16, 2008 until sunset on July 17, 2008.

Issued by the Governor July 16, 2008

Filed by the Secretary of State July 18, 2008

2008-293
Caribbean Festival Days

WHEREAS, the 5th Caribbean Festival/Jamaican Independence Celebration will be held on August 8-10, 2008; and

WHEREAS, this year's Caribbean Festival is dedicated to health awareness and to unity among all nations, with the belief that "Out of Many Nationalities We Are One People"; and

WHEREAS, the Festival will feature musical performances from some of reggae's top international acts, arts and crafts, and food, as well as a "Chi-Town Idol" contest to find Illinois' most talented artists in song, spoken word and dance; and

WHEREAS, the primary objective of the Festival is to bring together, under one umbrella, people of various nationalities, cultures, and ethnic backgrounds:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 8-10, 2008 as **CARIBBEAN FESTIVAL DAYS** in Illinois, and urge all Illinoisans to participate in this family event.

Issued by the Governor July 16, 2008
Filed by the Secretary of State July 18, 2008

2008-294
Mesothelioma Awareness Day

WHEREAS, approximately 3,000 Americans die each year from mesothelioma, an aggressive cancer of the linings of the lungs, abdomen, heart or testicles; and

WHEREAS, human use of asbestos in the built environment and in products is the main cause of mesothelioma; and

WHEREAS, asbestos was used in the construction of virtually all office buildings, public schools, and homes built before 1975; and

WHEREAS, a high percentage of all mesothelioma victims were exposed to asbestos on naval ships and in shipyards; and

WHEREAS, it is believed that many of the firefighters, police officers, and rescue workers from Ground Zero on 9/11/01 may be at increased risk of contracting mesothelioma; and

WHEREAS, exposure to asbestos for as little as one month may result in mesothelioma 30 years later; and

WHEREAS, for decades the need for research to develop effective treatments for mesothelioma was overlooked; and

WHEREAS, as a result, treatments available today generally have only limited effect and most patients succumb to the disease within only 12 to 15 months from diagnosis; and

WHEREAS, in 1999, the Mesothelioma Applied Research Foundation was formed to eradicate the life-ending and vicious effects of mesothelioma, and early progress in developing effective treatments for the disease is now being made; and

WHEREAS, the establishment of Mesothelioma Awareness Day will help to raise public awareness of the disease and of the need to develop effective treatments for it:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim September 26, 2008 as **MESOTHELIOMA AWARENESS DAY** in Illinois.

Issued by the Governor July 16, 2008
Filed by the Secretary of State July 18, 2008

2008-295
Pain Awareness Month

WHEREAS, today, more than 100 million Americans and Illinoisans live with chronic pain caused by a variety of diseases and disorders, and nearly 25 million suffer from acute pain every year; and

WHEREAS, medical technology can help relieve and reduce most pain, yet many who suffer from pain are improperly treated, undertreated, or not treated at all; and

WHEREAS, the Northern Illinois Pain Resource Nurse Consortium, American Pain Foundation, and American Alliance of Cancer Pain Initiatives have teamed up to prepare a "Power Over Pain" campaign for the month of September to raise awareness about pain, and to encourage those living with pain to become their own best advocates; and

WHEREAS, as part of the "Power Over Pain" campaign, community events throughout Northern Illinois will educate medical professionals and the public about the undertreatment of pain, inadequate access to pain care, and barriers to pain management:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2008 **PAIN AWARENESS MONTH** in Illinois in support of the "Power Over Pain" campaign and efforts to improve and promote the management and treatment of pain.

Issued by the Governor July 17, 2008
Filed by the Secretary of State July 18, 2008

ILLINOIS ADMINISTRATIVE CODE
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