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ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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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.].

2007 REGISTER SCHEDULE VOLUME #31

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 26, 2006	January 5, 2007
2	January 2, 2007	January 12, 2007
3	January 8, 2007	January 19, 2007
4	January 16, 2007	January 26, 2007
5	January 22, 2007	February 2, 2007
6	January 29, 2007	February 9, 2007
7	February 5, 2007	February 16, 2007
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14	March 26, 2007	April 6, 2007
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16	April 9, 2007	April 20, 2007
17	April 16, 2007	April 27, 2007
18	April 23, 2007	May 4, 2007
19	April 30, 2007	May 11, 2007
20	May 7, 2007	May 18, 2007
21	May 14, 2007	May 25, 2007
22	May 21, 2007	June 1, 2007
23	May 29, 2007	June 8, 2007
24	June 4, 2007	June 15, 2007

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
25	June 11, 2007	June 22, 2007
26	June 18, 2007	June 29, 2007
27	June 25, 2007	July 6, 2007
28	July 2, 2007	July 13, 2007
29	July 9, 2007	July 20, 2007
30	July 16, 2007	July 27, 2007
31	July 23, 2007	August 3, 2007
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33	August 6, 2007	August 17, 2007
34	August 13, 2007	August 24, 2007
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36	August 27, 2007	September 7, 2007
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49	November 26, 2007	December 7, 2007
50	December 3, 2007	December 14, 2007
51	December 10, 2007	December 21, 2007
52	December 17, 2007	December 28, 2007

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
310.50	Amendment
310.80	Amendment
310.100	Amendment
310.260	Amendment
310.280	Amendment
310.290	Amendment
310.295	New Section
310.410	Amendment
310.450	Amendment
310.490	Amendment
310.495	Amendment
310.500	Amendment
310.530	Amendment
310.540	Amendment
310.APPENDIX A TABLE J	Amendment
310.APPENDIX A TABLE Q	Amendment
310.APPENDIX A TABLE W	Amendment
310.APPENDIX A TABLE X	Amendment
310.APPENDIX B	Amendment
310.APPENDIX C	Amendment
310.APPENDIX D	Amendment
310.APPENDIX G	Amendment
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 20 ILCS 415/8a].
- 5) A Complete Description of the Subjects and Issues Involved: In the Table of Contents, the heading changes are to Section 310.290 removing "or Foreign Service", to Sections 310.450 and 310.540 including bonuses and to add the new Section 310.295 for foreign service rates.

In Section 310.50, the definition of "creditable service" references to Section 310.80 are corrected, the entrance salary becomes "entrance base salary" and "Superior Performance" is removed.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

In Section 310.80(d), the January 1, 2007 effective date of the 3% adjustment increase to salary grade salaries is specified.

In Section 310.100, "out-of state assignment" is placed next to the other assignment pay treatments, the subsections are numbered to accommodate the placement, and in subsection (m) the hyphen is removed from "bi-lingual" to match the definition in 310.50.

In Section 310.260, the 3% adjustment increase to the salary grade trainee rates and to the base salary for each salary grade employee without change in the employee's creditable service date effective January 1, 2007 are specified.

In Section 310.280, two designated rates are removed at the request of the agencies and as approved by the Governor. The annual salary of \$55,200 for the Administrative Assistant I, Position Number 00501-10-68-010-80-21, in the Department of Human Services, is removed effective August 24, 2006. The annual salary of \$123,060 for a Senior Public Service Administrator, Position Number 40070-33-20-000-00-61, in the Department of Healthcare and Family Services, is removed effective August 15, 2006.

In Section 310.290, foreign service information is removed. The Revenue Audit Supervisor title's out-of-state rate ranges are added. The maximum rates are increased by 17% in the out-of-state ranges where the classifications are otherwise assigned to the merit compensation system except that for the Senior Public Service Administrator or not assigned to a bargaining unit. Employees in positions assigned to and receiving out-of-state rates where the classifications are otherwise assigned to the merit compensation system or not assigned to a bargaining unit are eligible for the annual merit increases and bonuses whose procedures and guidechart are in Sections 310.450 and 310.540, respectively. Suspensions of adjustments are clarified.

In a new Section 310.295, foreign service rate information formerly in Section 310.290 is included. The maximum rates are increased by 17% in the foreign service ranges where the classifications are otherwise assigned to the merit compensation system or not assigned to a bargaining unit. Employees in positions assigned to and receiving foreign service rates where the classifications are otherwise assigned to the merit compensation system or not assigned to a bargaining unit are eligible for the annual merit increases and bonuses whose procedures and guidechart are in Sections 310.450 and 310.540, respectively. Suspensions of adjustments are clarified. The monthly exchange rate differential is now correctly labeled.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

In Section 310.410, the locations of all titles with positions in the merit compensation system are clarified. Two new position classifications, State Mine Inspector-At-Large and Revenue Audit Supervisor are added to the Merit Compensation System with the proposed salary ranges, MC-11 and MC-12, respectively. The Civil Service Commission approved the classes effective June 1 and July 1, 2006, respectively.

In Section 310.450, the heading is changed to include the bonuses. The annual merit increases are restored and annual merit bonuses are added. Bonus is defined. The review is properly named as defined in 310.500. The forms and guidechart are correctly identified.

In Section 310.490, the date in subsection (j) is removed, and when to seek approval for a salary after reinstatement in subsection (m) is clarified.

In Section 310.495, subsection (c) on salary adjustment is clarified.

In Section 310.500, the definitions of base salary, creditable service, entrance salary, midpoint salary, and performance review date are clarified.

In Section 310.530, the locations of the salary schedules for all titles with positions assigned to the merit compensation system and the guidechart are clarified.

In Section 310.540, the heading is changed to include the bonuses. The guidechart with no increases is given the July 1, 2003 effective date and a guidechart effective January 1, 2007 is provided.

In Section 310.Appendix A Table J, "TR" is explained as used for the Clerical Trainee title.

In Section 310.Appendix A Table Q, the bargaining unit, title codes, and Pay Plan codes are added to the table for consistency in the Pay Plan.

In Section 310.Appendix A Table W, the Corrections Academy Trainer title information is removed from the title table as the class was abolished by the Civil Service Commission effective May 1, 2006.

In Section 310.Appendix A Table X, the Child Welfare Supervisor title information is removed from the title table as the class was abolished by the Civil Service Commission effective July 1, 2006.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

In Section 310.Appendix B, the position classifications assigned to the Salary Grade system are added in a title table. A rate table effective January 1, 2007 is added.

In Section 310.Appendix C, effective January 1, 2007 the maximum rates in the ranges assigned to medical administrator titles are increased by 17%.

In Section 310.Appendix D, effective January 1, 2007 the maximum rates in the merit compensation ranges, except for MC 20, are increased by 17% and consequently the midpoints are adjusted. The dash is replaced in the MC 20 designation with a space for consistency.

In Section 310.Appendix G, effective January 1, 2007 the maximum rates in the ranges assigned to broad-band titles, except the Senior Public Service Administrator title, are increased by 17%.

- 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? Yes
- 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

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.50	Amendment	30 Ill. Reg. 15240, 9/29/06
310.100	Amendment	30 Ill. Reg. 15240, 9/29/06
310.280	Amendment	30 Ill. Reg. 15240, 9/29/06
310.290	Amendment	30 Ill. Reg. 15240, 9/29/06
310.295	New Section	30 Ill. Reg. 15240, 9/29/06
310.410	Amendment	30 Ill. Reg. 15240, 9/29/06
310.490	Amendment	30 Ill. Reg. 15240, 9/29/06
310.500	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX A TABLE J	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX A TABLE Q	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX A TABLE W	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX A TABLE X	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX B	Amendment	30 Ill. Reg. 15240, 9/29/06

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

310.290	Amendment	30 Ill. Reg. 16504, 10/20/06
310.APPENDIX C	Amendment	30 Ill. Reg. 16504, 10/20/06
310.APPENDIX D	Amendment	30 Ill. Reg. 16504, 10/20/06
310.APPENDIX G	Amendment	30 Ill. Reg. 16504, 10/20/06

11) Statement of Statewide Policy Objectives: These amendments to the Pay Plan affect only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.

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

Mr. Jason Doggett
Acting Manager
Compensation Section
Division of Technical Services and Agency Training and Development
Bureau of Personnel
Department of Central Management Services
504 William G. Stratton Building
Springfield IL 62706

Phone: 217/782-7964
Fax: 217/524-4570
CMS.PayPlan@Illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

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: Some of the content of this rule was included in the January 2007 regulatory agenda. Some was not included on either of the two most recent agendas because the need for the changes was only recently approved.

The text of the Proposed Amendments is identical to the text of the Emergency Amendments on page 1483 of this issue of the *Illinois Register*.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.12 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This is a federally required change. Based on a State Medicaid Director letter from the federal Centers for Medicare and Medicaid Services (CMMS) dated December 13, 2006, the Department is required to implement procedures to assure that any entity, making or receiving Medicaid payments of \$5,000,000 or more annually, establish written policies for all employees, contractors, or agents of the entity regarding the False Claims Act and other provisions enacted in section 6032 of the Deficit Reduction Act (P.L. 109-0171), which added section 1902(a)(68)(A) to the Social Security Act. Entities are defined as providers and governmental entities. Section 1902(a) deals with the requirements of State plans.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments 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? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.13	Amendment	30 Ill. Reg. 14007; 8/25/06
140.15	Amendment	30 Ill. Reg. 14007; 8/25/06
140.18	Amendment	30 Ill. Reg. 14007; 8/25/06
140.24	Amendment	30 Ill. Reg. 14007; 8/25/06
140.25	Amendment	30 Ill. Reg. 14007; 8/25/06
140.28	Amendment	30 Ill. Reg. 14007; 8/25/06
140.30	Amendment	30 Ill. Reg. 14007; 8/25/06
140.33	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1001	Amendment	30 Ill. Reg. 14007; 8/25/06

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

140.1002	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1003	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1004	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1005	Amendment	30 Ill. Reg. 14007; 8/25/06
140.469	Amendment	30 Ill. Reg. 17719; 11/13/06
140.526	Amendment	30 Ill. Reg. 17719; 11/13/06
140.530	Amendment	30 Ill. Reg. 17719; 11/13/06
140.860	Amendment	30 Ill. Reg. 17719; 11/13/06
140.994	New Section	30 Ill. Reg. 18860; 12/15/06
140.995	New Section	30 Ill. Reg. 18860; 12/15/06
140.996	New Section	30 Ill. Reg. 18860; 12/15/06
140.997	New Section	30 Ill. Reg. 18860; 12/15/06

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

The Department requests the submission of written comments within 30 days after the publication of this Notice. The Department will consider all written comments it receives during the 1st Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid providers that receive at least \$5 million annually from Department or other government entities that reimburse providers for Medicaid services.
 - 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: These proposed amendments were not included on either of the two most recent agendas because this rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 1580:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: State of Illinois Dependent Care Assistance Plan
- 2) Code Citation: 80 Ill. Adm. Code 2110
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2110.30	Amendment
2110.110	Amendment
2110.120	Amendment
2110.210	Amendment
2110.220	Amendment
2110.230	Amendment
2110.310	Amendment
2110.320	Amendment
2110.330	Amendment
2110.410	Amendment
2110.420	Amendment
2110.430	Amendment
2110.440	Amendment
2110.510	Amendment
2110.520	Amendment
2110.530	Amendment
2110.540	Amendment
2110.610	Amendment
2110.620	Amendment
2110.710	Amendment
2110.720	Amendment
2110.740	Amendment
2110.810	Amendment
- 4) Statutory Authority: Implementing Sections 125 and 129(d) of the Internal Revenue Code (26 U.S.C. 125 and 129(d)), Section 405-110 of the Civil Administrative Code of Illinois [20 ILCS 405/405-110], Section 30c of the State Finance Act [30 ILCS 105/30c], and Sections 3 and 9 of the State Employees Group Insurance Act of 1971 [5 ILCS 375/3 and 9] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625]
- 5) Effective Date of Amendments: December 28, 2006
- 6) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 7) Do these amendments contain incorporations by reference? Yes
- 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) Date Notice of Proposal was Published in the Illinois Register: April 14, 2006; 30 Ill. Reg. 6204
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 2110.30, the example of Summer Day Camps as an eligible expense under the definition of Dependent Care Expenses was expanded to include special instructional camps (i.e., dance, music sports). Other non-substantive, technical changes were made.
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Generally, the amendments outline the eligibility and participation requirements for the State of Illinois Dependent Care Assistance Plan. Specifically, some definitions were deleted and others added, and changes were made to clarify the eligibility requirements for the Plan and more clearly define the role of the Department and the Plan Administrator. Also, technical changes have been made for clarity purposes, and additional modifications were made to the authority under which the Plan is implemented to make the Plan consistent with numerical changes in Code sections enacted by the legislature.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Janice Bonneville
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, IL 62706

217/782-9491

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 17) Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

The full text of the Adopted Amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE F: EMPLOYEE BENEFITS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2110

STATE OF ILLINOIS DEPENDENT CARE ASSISTANCE PLAN

SUBPART A: INTRODUCTION AND DEFINITIONS

Section

2110.10	Summary and Purpose of Plan
2110.20	Plan Number
2110.30	Definitions

SUBPART B: ADMINISTRATION

Section

2110.110	Role of the Department/ Plan Administrator
2110.120	Expenses of Administration

SUBPART C: PARTICIPATION

Section

2110.210	Date of Participation
2110.220	Insufficient Salary
2110.230	Errors
2110.240	Reinstatement of Former Participant (Repealed)

SUBPART D: ELECTION TO RECEIVE DEPENDENT CARE ASSISTANCE

Section

2110.310	Election Procedure
2110.320	Irrevocability of Election
2110.330	Maximum Dependent Care Assistance
2110.340	Minimum Dependent Care Assistance

SUBPART E: DEPENDENT CARE ASSISTANCE ACCOUNTS

Section

2110.410	Establishment of Accounts
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2110.420 Crediting of Accounts
- 2110.430 Debiting of Accounts
- 2110.440 Forfeiture of Accounts

SUBPART F: PAYMENT OF DEPENDENT CARE ASSISTANCE ACCOUNTS

Section

- 2110.510 Claims for Reimbursement
- 2110.520 Reimbursement of Participant
- 2110.530 Exclusions
- 2110.540 Statements

SUBPART G: TERMINATION OF PARTICIPATION

Section

- 2110.610 Termination or Death of Participant
- 2110.620 Fraud

SUBPART H: MISCELLANEOUS

Section

- 2110.710 Non-discrimination
- 2110.720 Illegality of a Particular Provision
- 2110.730 Applicable Law
- 2110.740 Rights Against the Employer
- 2110.750 Effect on Pension
- 2110.760 Effect on Social Security
- 2110.770 Benefits Solely From General Assets
- 2110.780 Nonassignability of Rights
- 2110.790 Tax Consequences
- 2110.800 Indemnification of State by Participants
- 2110.810 Right to Amend and Terminate Reserved

AUTHORITY: Implementing Sections 125 and 129(d) of the Internal Revenue Code (26 USC 125 and 129(d)), Section 405-110 of the Civil Administrative Code of Illinois [20 ILCS 405/405-110], Section 30c of the State Finance Act [30 ILCS 105/30c], and Sections 3 and 9 of the State Employees Group Insurance Act of 1971 [5 ILCS 375/3 and 9] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

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SOURCE: Emergency rules adopted at 10 Ill. Reg. 20248, effective December 1, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 9477, effective April 30, 1987; emergency amendments at 12 Ill. Reg. 11795, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17283, effective October 14, 1988; emergency amendments at 13 Ill. Reg. 214, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9259, effective May 31, 1989; amended at 16 Ill. Reg. 13801, effective August 28, 1992; amended at 19 Ill. Reg. 8590, effective June 14, 1995; amended at 21 Ill. Reg. 2950, effective February 21, 1997; amended at 31 Ill. Reg. 352, effective December 28, 2006.

SUBPART A: INTRODUCTION AND DEFINITIONS

Section 2110.30 Definitions

- a) Wherever used in the Plan, the following terms have the following meanings and when the defined meaning is intended, the term is capitalized:

"Anticipated Payroll" means those payrolls in which the Participant is issued a paycheck during the Pay Period that the deduction is taken.

"Change in Family Status" means marriage, divorce, death of Spouse or child, ~~birth or~~ adoption of child, return to work after birth of a child, termination of employment of Spouse, or any other events ~~which~~ the Department determines constitute a Change in Family Status.

"Code" means the Internal Revenue Code of 1954 (26 USC 1 et seq. ~~[1985]~~) and applicable regulations, or any successor statute.

"Compensation" means wages, salaries and other ~~employee~~ Employee Compensation received by a Participant or Spouse, including the net earnings from self-employment within the meaning of ~~section~~ Section 1402(a) of the Code.

"Delayed Payroll" means those payrolls in which the Participant is issued a paycheck following the Pay Period that the deduction is taken.

"Department" means the Illinois Department of Central Management Services.

"Dependent" means a Participant's Qualifying Child, Spouse or Qualifying Relative.

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"Dependent Care Expenses" mean expenses incurred by a Participant ~~that~~which:

are incurred for the well-being and protection of a Dependent of the Participant,

are paid to a Dependent Care Service Provider, and

are incurred to enable the Participant and his or her Spouse to be gainfully employed.

Dependent Care Expenses~~They~~ may be for household services if part of the services are for the care of the Dependent.

Dependent Care Expenses do not include expenses paid or incurred for services provided by:

a child of the Participant who is under the age of 19 at the close of the Plan Year; or

an individual who the Participant or Spouse can claim as an exemption on his or her income tax form.

Examples of eligible expenses are:

Day care centers. ~~The~~Such centers must comply with all applicable laws and regulations of a State or unit of local government.

Nursery schools and pre-schools (private or public).

Before and after-school care.

Babysitters or nurses or grandparents or any other Dependent Care Service Providers inside or outside the Participant's home.

Household services. The services of a housekeeper, maid, or cook are eligible expenses if performed partly for the benefit of the Dependent.

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Work-related expenses. Any work-related expenses ~~that~~which allow the Participant (and Spouse, if married) to work. Examples are meals and lodging for a housekeeper and Social Security and Federal unemployment taxes paid on wages.

Summer day camps (full day camps used as day care) and special instruction camps (i.e., dance, music, sports).

Examples of expenses that are not eligible are:

The cost of schooling for children in kindergarten~~the first grade~~ or higher.

Chauffeur or gardener services.

Expenses claimed on the Participant's income tax return or by another taxpayer.

Transportation related to dependent care services.

Summer camp (not day care and usually includes an overnight stay)~~and special instruction, i.e., dance, music, art and swimming lessons, are examples of expenses which are not eligible for Reimbursement.~~

Expenses~~Other examples of those expenses which are not eligible are those~~ not allowed by the Internal Revenue Service for the child and dependent care credit on an income tax return.

"Dependent Care Service Provider" means a person or institution that~~which~~ provides care or other services described in the definition of Dependent Care Expenses ~~above~~.

~~"Dependents" are classified as children under age 13 whom the Participant is entitled to claim as an exemption on his or her income tax form or older persons (including Spouses) who require care while the Participant or Spouse work. To qualify for dependent care Reimbursement for persons over age 13, the following must apply:~~

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~~Dependent must spend eight or more hours a day in Participant's home.~~

~~Dependent must be physically or mentally incapable of being left alone.~~

~~Dependent could be claimed as a dependent on Participant's income tax return except that the person has gross income of \$1,900 or more.~~

~~A non-custodial parent who receives an income tax exemption under 151(e) of the Code cannot claim that child as a Dependent for purposes of this Plan.~~

~~"Effective Date" means any paycheck issued after July 1 of the Plan Year.~~

~~"Eligible Employee" means any employee working fulltime or not less than half time who is eligible to participate in the Health Plan authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375]. It includes those employees who have lost eligibility to participate in the Health Plan because of a reduction in hours worked but have chosen continuation coverage through payroll deduction as authorized by the Consolidated Omnibus Budget Reconciliation Act (COBRA) (P.L. 99-272) as long as there is no break in coverage or payroll deductions. An Eligible Employee of the Employer excludes independent contractors, temporary employees and retirees who return to work for not longer than 75 days per year after they retire.~~

~~"Employee" means an Employee of the Employer excluding independent contractors, temporary employees, and retirees who return to work for not longer than 75 days per year after they retire.~~

"Employer" means the State of Illinois, which includes all officers, boards, commissions, and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government ~~that~~ which are created by or pursuant to statute, other than units of local government and their officers, school districts and boards of election commissioners; and all

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administrative units and corporate outgrowths of the above as may be created by executive order of the Governor.

"Enrollment Form" means the form provided by the Department for the purpose of filing an election and Compensation reduction agreement and for making changes authorized by the Plan.

"Health Plan" means health, dental and vision coverage offered by the Department to eligible persons.

"Highly Compensated Participant" means any Participant who was in either of the following categories at any time during the current year:

an officer of the State or its administrative units or corporate outgrowths who has annual total Compensation greater than \$75,000, or

a Participant who receives Compensation in excess of \$50,000 and is in the top 20% of all State ~~employee~~ ~~Employee~~ salaries.

"Participant" means each Eligible Employee who participates in the Plan in accordance with Section 2110.210 of this Part.

"Pay Period" means a regular accounting period established by the State of Illinois for measuring and paying Compensation earned by ~~employees~~ ~~Employees~~. A Pay Period may be monthly, semi-monthly or biweekly.

"Plan" means the State of Illinois Dependent Care Assistance Plan as set forth in ~~this Part~~ ~~these rules~~, and as may be amended from time to time in compliance with the Illinois Administrative Procedure Act [5 ILCS 100](Ill. Rev. Stat. 1991, ch. 127, pars. 1001-1 et seq.).

"Plan Administrator" means an organization, company or other entity designated by the Director to perform certain duties related to the administration of a specific plan in accordance with the terms of the contract between the organization and the Department.

"Plan Year" means the 12-consecutive-month period comprising the State fiscal year beginning July 1.

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"Qualifying Child" means an individual who has a specified family-type relationship to the Participant, lives in the Participant's household for more than half of the taxable year, is 12 years old or younger and has not provided more than one-half of his or her own support for the taxable year.

"Qualifying Relative" means an individual who is physically and/or mentally incapable of self care, is not someone else's Qualifying Child, lives in the Participant's household for more than half of the taxable year, spends at least eight hours per day in the Participant's home, has a gross income less than the exemption allowed under section 151(d) of the Internal Revenue Code, and receives more than one-half of his or her support from the Participant during the tax year.

"Reimbursement" means to pay a Participant in this Plan for Dependent Care Expenses from his or her dependent care assistance account.

"Spouse" means the person to whom the Participant is married. Spouse does not include a person separated from the Participant under a decree of divorce. A Participant is entitled to receive Reimbursement for Dependent Care Expenses for the Spouse if the Spouse is physically or mentally incapable of self care, lives in the Participant's household for more than half of the taxable year and spends at least 8 hours per day in the Participant's home or separate maintenance.

"Termination" means the permanent severance of the Participant's employment relationship with the Employer as provided by the appropriate rules of the Employer.

- b) A pronoun or adjective in the masculine gender includes the feminine gender and the singular includes the plural, unless the context clearly indicates otherwise.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

SUBPART B: ADMINISTRATION

Section 2110.110 Role of the Department Plan Administrator

- a) The Plan shall be administered by the Plan Administrator ~~Department of Central Management Services~~.

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- b) The Department reserves the right to enter into agreements with other agencies to delegate various record keeping and other administrative functions to the employing agencies of Participants.
- c) It shall be a principal duty of the Department to see that the Plan is carried out for the exclusive benefit of persons entitled to participate in the Plan without discrimination among them.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.120 Expenses of Administration

Any expenses incurred relative to the administration of the Plan shall be paid by the Department~~Employer~~.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

SUBPART C: PARTICIPATION

Section 2110.210 Date of Participation

- a) An Eligible Employee ~~Each Employee will be eligible to participate in the Plan. Such an individual~~ will become a Participant upon an election under this Plan to receive dependent care assistance.
- b) New Eligible Employees may become Participants upon an election to receive dependent care assistance ~~that~~which is made within 60 days ~~after~~of becoming an employee~~Employee~~.
- c) Eligible Employees who experience a Change in Family Status may elect to participate at any time during the Plan Year. ~~The~~Such election must be made within 60 days ~~after~~of ~~the Change~~change in Family Status.
- d) Elections from new Eligible Employees~~employees~~ or those who have had a Change in Family Status will be effective the first Pay Period after the signature date of the Participant on the Enrollment Form or the date of the Change in Family Status, whichever is later~~is completed and processed by the Department~~.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

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Section 2110.220 Insufficient Salary

- a) Participation can only be through payroll deduction.
- b) In the event the Participant has no salary or insufficient salary in a particular Pay Period because of a temporary change in job status, including, but not limited to, reductions in work hours and leaves of absence, no deduction will be taken and the Participant's participation in the Plan~~Participant's deduction~~ will be revoked.
- c) The revoked Participant described in this Section can request Reimbursement of Dependent Care Expenses in accordance with Subpart F of this Part.
- d) The revoked Participant described in this Section can re-enroll the next election period or upon experiencing a Change in Family Status in accordance with Section 2210.240 of this Part.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.230 Errors

- a) Participants are responsible for monitoring their accounts and notifying the Employer of any payroll or other errors.
- b) In the event a deduction is missed or an incorrect amount is deducted because of payroll or other processing errors, the error must be corrected on a later payroll, or direct billed to the Participant if he or she is off payroll.
- c) If the correction of the error causes an economic hardship for the Participant~~Employee~~, the funds sufficient to correct the error will be deducted from the Participant's paycheck over the two months immediately following the discovery of the error, such circumstances shall be considered a change in family status as described in Section 2110.320 of this Part and a new election can be made. The election will be effective the first Pay Period after the Enrollment Form is completed and processed by the Department.
- d) In the event of overpayment because of error, thea Participant will be asked to refund to the Department the excess Reimbursement~~reimbursement~~.
- e) If the Participant refuses, the Department will request the Comptroller to withhold

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the required amount from the Participant's Employee's next available paycheck pursuant to 74 Ill. Adm. Code 285. If the Participant is off payroll, the overpayment will be added as income to the Participant's W-2.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

SUBPART D: ELECTION TO RECEIVE DEPENDENT CARE ASSISTANCE

Section 2110.310 Election Procedure

- a) An Eligible Employee may elect to receive dependent care assistance under this Plan by making an election and Compensation reduction agreement on an Enrollment Form provided by the Department.
- b) The enrollment period will be at a time to be determined by the Department prior to the beginning of the Plan Year. The enrollment period shall be sufficient to allow Eligible Employees to enroll in the Plan and shall in no case be less than 30 days prior to the beginning of the Plan Year.
- c) The election must be for a specified annual dollar amount evenly divisible by the number of Pay Periods remaining in the Plan Year.
- d) The Participant must re-enroll each year to continue participation.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.320 Irrevocability of Election

- a) An election to participate shall be irrevocable during the Plan Year unless a Changechange in Familyfamily Statusstatus has occurred.
- b) A Changechange in Familyfamily Statusstatus, including marriage, divorce, death of a Spouse or child, ~~birth or~~ adoption of a child, return to work following the birth of a child, termination of employment of a Spouse, and any such other events that the Department determines constitute a Changechange in Familyfamily Statusstatus, will permit a change or revocation of an election during a Plan Year under the Code. ~~Failure to obtain the taxpayer identification or social security number of the Dependent Care Service Provider will not constitute a valid Change in Family Status.~~

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- c) Any new election under this Section shall be effective the first Pay Period after the signature date of the Participant on the Enrollment Form or the date of the Change in Family Status, whichever is later~~election form is completed and processed by the Department.~~

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.330 Maximum Dependent Care Assistance

- a) The maximum amount for which the Participant may be reimbursed under this Plan during the Plan Year shall be the least of:
- 1) the Participant's taxable Compensation for the Plan Year,
 - 2) the actual taxable or deemed Compensation of the Participant's Spouse for the Plan Year, or
 - 3) \$5,000.
- b) The combined maximum for a Participant and Spouse who are both participating in plans of this type is \$5,000.
- c) The maximum for a married Participant filing a separate return is \$2,500.
- d) The Pay Period maximum is the annual maximum divided by the number of Pay Periods in the Plan Year. This Pay Period maximum cannot be exceeded even if there is a Change in Family Status.
- e) Any amount reimbursed under this Plan during the tax year reduces, dollar for dollar, the amount of expenses eligible for the dependent care credit on the Participant's federal income tax form.
- f) A Spouse shall be deemed to have Compensation of \$250~~200~~ per month if the Participant has one Dependent and \$416.66~~400~~ per month if the Participant has two or more Dependents if the Spouse is:
- 1) a student at an educational institution, or
 - 2) is physically or mentally incapable or caring for himself or herself.

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- g) A Participant shall be considered married for the whole Plan Year if the Participant is married during the Plan Year.
- h) A Participant shall be considered single if he or she is divorced from the Spouse at the close of the Plan Year.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

SUBPART E: DEPENDENT CARE ASSISTANCE ACCOUNTS

Section 2110.410 Establishment of Accounts

The [Plan Administrator-Department](#) will establish and maintain a dependent care assistance account for each Plan Year for each Participant who has enrolled for the Plan Year.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.420 Crediting of Accounts

- a) There shall be credited to a Participant's dependent care assistance account for each Plan Year, as of each Pay Period, an amount equal to the reduction made in the Participant's Compensation in accordance with the Participant's election.
- b) All amounts credited to [each such](#) dependent care assistance account shall be the property of the State until paid out pursuant to Subpart F of this Part.
- c) No interest will be paid on balances in the dependent care assistance accounts.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.430 Debiting of Accounts

A Participant's dependent care assistance account for each Plan Year shall be debited as of the date the Reimbursement is processed by the [Plan Administrator-Department](#) under Section 2110.520 of this Part.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.440 Forfeiture of Accounts

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- a) The amount credited to a Participant's dependent care assistance account for any Plan Year shall be used:
 - 1) only to reimburse the Participant for Dependent Care Expenses incurred during ~~the applicable~~ such Plan Year, and
 - 2) only if the Participant applies for Reimbursement on or before September 30 of the next Plan Year.
- b) If any balance remains in the Participant's dependent care assistance account for any Plan Year after all Reimbursements ~~have been made, the hereunder,~~ such balance shall not be carried over to reimburse the Participant for Dependent Care Expenses incurred during a subsequent Plan Year, and shall not be available to the Participant in any other form or manner.
- c) Any remaining balance in the fund shall be distributed to the ~~202 Health Insurance Reserve~~ Reserve Fund.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

SUBPART F: PAYMENT OF DEPENDENT CARE ASSISTANCE ACCOUNTS

Section 2110.510 Claims for Reimbursement

- a) A Participant who has enrolled for a Plan Year may apply to the ~~Plan Administrator~~ Department for Reimbursement of Dependent Care Expenses incurred by the Participant between July 1 and June 30. Dependent Care Expenses are treated as incurred when the dependent care is provided and not when the Participant is billed or charged, or pays for the dependent care.
- b) New ~~Participants who enroll during the open enrollment period~~ Employees may apply for Reimbursement of Dependent Care Expenses incurred between the first day of the ~~Plan Year~~ Pay Period ~~deductions begin in accordance with Section 2110.210 of this Part~~ and June 30. New Participants who enroll through a mid-year enrollment due to a Change in Family Status may apply for Reimbursement of Dependent Care Expenses incurred between the first day of the Pay Period following the signature date on the Enrollment Form, or the date of the Change in Family Status, whichever is later, and June 30.
- c) Participants who revoke participation in accordance with ~~Sections~~ Section

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~~2110.220 and 2110.320 of this Part~~ before the end of the Plan Year may apply for Reimbursement of Dependent Care Expenses incurred between July 1 and, if on an Anticipated Payroll, the last day of the Pay Period that a deduction was taken or, if on a Delayed Payroll, the last day of the Pay Period following the Pay Period that the last~~there was a deduction was taken.~~

- d) The Participant may apply by submitting an application in writing to the Plan Administrator~~Department~~ on a claim form provided by the Plan Administrator~~Department~~ setting forth:
- 1) the amount, beginning and ending service date, and type of expense~~for nature of the expense with respect to~~ which Reimbursement~~a benefit~~ is requested;
 - 2) the name and, address, ~~and tax identification number or social security number~~ of the Dependent Care Service Provider, ~~unless the provider is a tax exempt organization in which case only the name and address must be provided~~; and
 - 3) bills, invoices, receipts or other statements showing the amounts of thesuch expenses.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.520 Reimbursement of Participant

- a) The Plan Administrator~~Department~~ shall reimburse the Participant from the Participant's dependent care assistance account for Dependent Care Expenses incurred during the Plan Year for which the Participant submits documentation in accordance with Section 2110.510 of this Part.
- b) The Reimbursement schedule will be established by the Plan Administrator~~Department~~ in a manner that allows the Participant to receive Reimbursement no less than once a month.
- c) No Reimbursement under this Section shall at any time exceed the balance of the Participant's dependent care assistance account for the Plan Year at the time of the Reimbursement.
- ~~1) The Participant will be notified of any amount of any Dependent Care~~

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~~Expenses not reimbursed as a result of the preceding sentence.~~

- 2) ~~The Participant must submit a new claim to receive Reimbursement of the amount not previously reimbursed.~~
- d) The ~~Plan Administrator~~Department will reimburse Participants who have filed claims in the prescribed manner:
 - 1) at least once a month if the claim equals or exceeds \$20, and if there is enough money in the account,
 - 2) at least once the twelfth month (or the final month of ~~an Employee's~~ participation) regardless of the amount.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.530 Exclusions

A Participant shall not be reimbursed for any expense that would otherwise be a Dependent Care Expense if:

- a) ~~the~~such expense was incurred at a time when the Participant was not a Participant in the Plan; or
- b) a claim for Reimbursement of ~~the~~such expense has not been filed in accordance with ~~the~~ provisions of Section 2110.510; or
- c) ~~the~~such expense was claimed as a credit or deduction on the Participant's federal or ~~State~~state income tax forms; or
- d) the Participant does not report the Dependent Care Service Provider's name ~~and~~, address, ~~and taxpayer identification or social security number~~ to the IRS or to the ~~Plan Administrator~~Department as provided by applicable Code requirements. ~~Taxpayer identification numbers will not be required for providers qualifying as tax exempt organizations under Section 501(c)(3) of the Code.~~

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.540 Statements

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- a) On or before January 31 of each year, the Department shall furnish to each Participant who was enrolled in the Plan~~has received dependent care assistance during the prior calendar year a written statement showing the amount of contributions made by the Participant into his or her accounts~~~~such assistance paid during such year with respect to the Participant.~~
- b) The Plan Administrator~~Department~~ shall also notify each Participant in writing via a monthly statement~~60 days prior to the end of the Plan Year~~ of the unused balance in his or~~her~~ account.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

SUBPART G: TERMINATION OF PARTICIPATION

Section 2110.610 Termination or Death of Participant

- a) In the event that a Participant terminates State service or dies, the Participant's participation shall terminate. Eligible expenses will include only those expenses incurred through the last day of the Pay Period that the last deduction was taken, if on an Anticipated Payroll, or, if on a Delayed Payroll, the last day of the Pay Period following the Pay Period that the last deduction was taken~~the date of the last pay period in which deductions were made.~~
- b) If the Participant returns to State service the same Plan Year, the Participant can re-enroll in accordance with the provisions of Section 2110.210~~of this Part. If reenrollment occurs within 30 days after the Termination or other separation from State service, the contribution amount per Pay Period must be the same as the amount contributed prior to the Termination~~

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.620 Fraud

In the event a Participant knowingly supplies the Department or Plan Administrator with false information or knowingly files a claim that~~which~~ is not qualified for Reimbursement, the Department or Plan Administrator shall exclude the Participant from further participation in the Plan for all subsequent Plan Years.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

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SUBPART H: MISCELLANEOUS

Section 2110.710 Non-discrimination

- a) This Plan shall meet the requirements of Code ~~sections~~ Sections 129 and 125 ~~that which~~ require that all benefits provided for Participants who are highly compensated are provided for all other Participants and ~~that which~~ establish benefits tests.
- b) Unless otherwise determined by the Department, the special dependent care assistance test will be used for this Part. It:
- 1) requires that the average benefit of Participants must be at least 55 percent of the average benefit of ~~Highly Compensated~~ highly compensated Participants, and
 - 2) allows Participants with ~~Compensation~~ compensation below \$25,000 to be disregarded for purpose of this test.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.720 Illegality of a Particular Provision

The illegality of any provision of this Plan shall not affect the other provisions of the Plan and the Plan shall be construed in all respects as if ~~the such~~ invalid provision were omitted.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.740 Rights Against the Employer

Neither the establishment ~~nor any modification~~ of the Plan ~~nor any modification thereof~~, nor any distributions ~~made under the Plan hereunder~~ shall be construed as giving to any Participant any legal or equitable rights against the Employer, the Department, State officers or administrators, ~~as such~~, or as giving any person the right to be retained in the employ of the Employer.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

Section 2110.810 Right to Amend and Terminate Reserved

- a) The Department has established the Plan with the bona fide intention and

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expectation that it will be continued indefinitely, but the Department will have no obligation ~~whatsoever~~ to maintain the Plan for any given length of time and may discontinue or terminate the Plan at any time without liability. |

- b) Upon termination or discontinuance of the Plan, all elections and reductions in Compensation relating to the Plan shall terminate, and the Department will pay any remaining balances to the Participants as additional taxable Compensation.

(Source: Amended at 31 Ill. Reg. 352, effective December 28, 2006)

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- 1) Heading of the Part: Commuter Savings Program
- 2) Code Citation: 80 Ill. Adm. Code 2190
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2190.10	New Section
2190.20	New Section
2190.110	New Section
2190.120	New Section
2190.210	New Section
2190.220	New Section
2190.310	New Section
2190.320	New Section
2190.410	New Section
2190.420	New Section
2190.510	New Section
2190.520	New Section
2190.530	New Section
2190.610	New Section
2190.620	New Section
2190.710	New Section
2190.720	New Section
2190.730	New Section
2190.740	New Section
2190.750	New Section
2190.760	New Section
2190.770	New Section
2190.780	New Section
2190.790	New Section
- 4) Statutory Authority: Implementing and authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375]
- 5) Effective Date of Rules: December 28, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes

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- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal was Published in the Illinois Register: May 19, 2006; 30 Ill. Reg. 9218
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version. The term "carpool" and its definition were added to Section 2190.20; Section 2190.320(a) was changed to read "Maximum contributions are in accordance with the limitations set forth in federal guidelines at 26USC 132(f)(2)"; and other non-substantive technical changes were made.
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter 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 Rules: This rulemaking cites the governing authority and provides for administration of a Commuter Savings Program of benefits for individuals in the service of the State.
- 16) Information and questions regarding this rulemaking shall be directed to:

Janice Bonneville
Illinois Department of Central Management Services
201 E. Madison, Suite 3A
P.O. Box 19208
Springfield IL 62794-1908

217/785-8675
- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE F: EMPLOYEE BENEFITS
CHAPTER 1: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2190
COMMUTER SAVINGS PROGRAM

SUBPART A: INTRODUCTION AND DEFINITIONS

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2190.10	Summary and Purpose of the Commuter Savings Program (CSP)
2190.20	Definitions

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Section	
2190.110	Administration of the Plan
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2190.210	Date of Participation
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SUBPART D: ELECTION

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2190.310	Election Procedures
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- 2190.510 Termination of Enrollment
- 2190.520 Termination, Leave of Absence or Death of Participant
- 2190.530 Fraud

SUBPART G: REIMBURSEMENT

Section

- 2190.610 Procedures
- 2190.620 Exclusions

SUBPART H: MISCELLANEOUS

Section

- 2190.710 Illegality of a Particular Provision
- 2190.720 Applicable Law
- 2190.730 Effect on Pensions
- 2190.740 Effect on Social Security
- 2190.750 Benefits Solely from General Assets
- 2190.760 Nonassignability of Rights
- 2190.770 Tax Consequences
- 2190.780 Indemnification of State by Participants
- 2190.790 Right to Amend and Terminate Reserved

AUTHORITY: Implementing section 132(f) of the Internal Revenue Code (926 USC 132(f)), Section 405-110 of the Civil Administrative Code of Illinois [20 ILCS 405/405-110], Section 30c of the State Finance Act [30 ILCS 105/30c], and Sections 3 and 9 of the State Employees Group Insurance Act of 1971 [5 ILCS 375/3 and 9] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

SOURCE: Adopted at 31 Ill. Reg. 374, effective December 28, 2006.

SUBPART A: INTRODUCTION AND DEFINITIONS

Section 2190.10 Summary and Purpose of the Commuter Savings Program (CSP)

The Commuter Savings Program (CSP) is intended to serve as a qualified transportation fringe program under section 132(f) of the Internal Revenue Code (26 USC 132(f)) and is to be interpreted in a manner consistent with the requirements of this Section. The purpose of CSP is to enable participants the opportunity to pay qualified transportation expenses with pre-tax payroll deducted contributions, limited to expenses not claimed on federal tax forms.

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Section 2190.20 Definitions

- a) Whenever used in this Part, the following words and phrases shall have the meanings specified.

"Carpool" means an arrangement in which a group of people commute together by car.

"Code" means the Internal Revenue Code of 1954 (26 USC 1 et seq.) and applicable regulations, or any successor statute.

"Commuter Highway Vehicle " means any highway vehicle with seating capacity of at least 6 adults (not including the driver) for which at least 80% of the mileage use can reasonably be expected to be:

for purposes of transporting employees in connection with travel between their residence and their place of employment ; and

on trips during which the number of employees transported for those purposes is at least one-half of the adult seating capacity of the vehicle (not including the driver).

"Compensation" means wages, salary or other compensation received by a Plan participant as reported on the participant's W-2 from the employer.

"Department " means the Illinois Department of Central Management Services.

"Eligible Employee" means any active State of Illinois employee working full-time or more than 50% of the average work week and who has payroll checks processed through the Office of the Comptroller for the State of Illinois. An eligible employee of the employer excludes independent contractors, temporary employees, and retirees who return to work for no longer than 75 days per year after they retire.

"Employer" means the State of Illinois, which includes all officers, boards, commissions, and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government that are created by or pursuant to statute other than units of

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local government and their officers, school districts and boards of election commissioners, and all administrative units and corporate outgrowths of the above as may be created by executive order of the Governor.

"Group Insurance Representative" or "GIR" means an individual who assists the Department with the administration of the Plan.

"Participant" means each eligible employee who participates in the Plan in accordance with Section 2190.210 of this Part.

"Pay Period" means a regular accounting period established by the State of Illinois for measuring and paying compensation earned by employees. A pay period may be monthly, semi-monthly or biweekly.

"Plan" means the State of Illinois Commuter Savings Program as set forth in this Part, and as may be amended from time to time in compliance with the Illinois Administrative Procedure Act [5 ILCS 100].

"Plan Administrator" means an organization, company or other entity designated by the Director to perform certain duties related to the administration of a specific plan in accordance with the terms of the contract between that organization and the Department.

"Plan Year" means the 12-consecutive-month period comprising the State fiscal year beginning July 1.

"Qualified Parking" means parking provided to the eligible employee on or near the business premises of the employer or on or near a location from where the eligible employee commutes to work by transportation on mass transit facilities, in a commuter highway vehicle or by carpool. This term shall not include any parking on or near property used by the eligible employee for residential purposes.

"Qualified Transportation Expenses" means:

mileage reimbursement, up to the federally set limits, for transportation in a commuter highway vehicle if the transportation is in connection with travel between the participant's residence and place of employment;

any transit pass; or

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qualified parking.

"Reimbursement" means to pay a participant in the Plan for qualified transportation expenses.

"Transit Pass" means any pass, token, fare card, voucher or similar item entitling a person to transportation (or transportation at a reduced price) if the transportation is:

on mass transit facilities (whether or not publicly owned); or

provided by any person in the business of transporting persons for compensation or hire if the transportation is provided in a highway vehicle with a seating capacity of at least 6 adults (not including the driver).

- b) A pronoun or adjective in the masculine gender includes the feminine gender and the singular includes the plural, unless the context clearly indicates otherwise.

SUBPART B: ADMINISTRATION

Section 2190.110 Administration of the Plan

- a) The Plan shall be administered by the Plan Administrator.
- b) The Department reserves the right to enter into agreements with other agencies to delegate various record keeping and other administrative functions to the employing agencies of the participants.
- c) It shall be the principal duty of the Department to see that the Plan is carried out for the exclusive benefit of persons entitled to participate in the Plan without discrimination among them.

Section 2190.120 Expenses of Administration

Any expenses incurred relative to the administration of the Plan shall be paid by the Department.

SUBPART C: PARTICIPATION

Section 2190.210 Date of Participation

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- a) An eligible employee will become a participant upon an election under this Plan to participate.
- b) Eligible employees may enroll in the Plan at any time.
- c) Participation can only be through payroll deduction.

Section 2190.220 Errors

- a) Participants are responsible for notifying their GIR of any payroll deduction errors.
- b) In the event a deduction is missed or an incorrect amount is deducted because of payroll or other processing errors, the error must be corrected on the payroll immediately following the discovery of the error.
- c) If the correction of the error causes an economic hardship for the participant, funds sufficient to correct the error will be deducted from the participant's paycheck over the two months immediately following the discovery of the error.
- d) If the error is unable to be corrected on payroll and the participant's account does not contain funds sufficient to cover the costs of participation in the Plan, the participant will be asked to refund to the Department any amount owed.
- e) If the participant refuses, the Department will request the Comptroller to withhold the required amount from the participant's next available paycheck pursuant to 74 Ill. Adm. Code 285.
- f) If the error is unable to be corrected on payroll and the participant's account contains funds in excess of those necessary to participate in the Plan, the Plan Administrator will refund the participant any excess amount.

SUBPART D: ELECTION

Section 2190.310 Election Procedures

- a) An eligible employee may elect to participate in this Plan by contacting the Plan Administrator. The Plan Administrator will notify the Department and the participant's GIR of the enrollment and the amount of the deduction.

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- b) Enrollment decisions or changes must be made and communicated to the Plan Administrator on or before the 10th day of each month to be effective at the start of the following month.
- c) Eligible employees may enroll in the Plan at any time. Eligible employees are not required to re-enroll each Plan year.

Section 2190.320 Benefit Options and Limits

- a) Maximum contributions are in accordance with limitations set forth in the federal guidelines at 26 USC 132(f)(2).
- b) Separate maximums apply to each qualified transportation benefit.

SUBPART E: QUALIFIED TRANSPORTATION BENEFIT ACCOUNTS

Section 2190.410 Establishment of Accounts

The Plan Administrator shall establish and maintain a qualified transportation benefit account for each participant.

Section 2190.420 Crediting to Accounts

- a) There shall be credited to each account, as of each pay period, an amount equal to the reduction made in the participant's compensation in accordance with the participant's election.
- b) All amounts credited shall be the property of the State until paid out pursuant to Subpart G of this Part.

SUBPART F: TERMINATION

Section 2190.510 Termination of Enrollment

- a) Participants may terminate enrollment in the Plan at any time.
- b) Termination decisions must be made and communicated to the Plan Administrator on or before the 10th day of each month to be effective at the start of the following month.

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Section 2190.520 Termination, Leave of Absence or Death of Participant

- a) If a participant terminates employment or takes a leave of absence, the participant must notify the Plan Administrator and his or her GIR by the 10th of the month prior to the termination or leave of absence.
- b) If the participant returns to State service, the participant may re-enroll in the Plan.
- c) In the event a participant dies, the participant's participation in the Plan shall be terminated.

Section 2190.530 Fraud

In the event a participant knowingly supplies the Department or the Plan Administrator with false information or knowingly files a claim that is not qualified for reimbursement as adjudicated by the Internal Revenue Service or a court of competent jurisdiction, the Department shall exclude the participant from further participation in the Plan.

SUBPART G: REIMBURSEMENT

Section 2190.610 Procedures

- a) Fees for transit passes are paid directly to the pass provider and the transit pass is mailed to the participant before the beginning of the month the pass is to be used.
- b) Fees for qualified parking may be paid directly to the parking provider or the participant may be reimbursed by submitting a claim form and proof of service directly to the Plan Administrator.
- c) Claims for mileage reimbursement for transportation in a commuter highway vehicle must be submitted on a claim form with proof of expense directly to the Plan Administrator.

Section 2190.620 Exclusions

A participant shall not be reimbursed for any expense that would otherwise be a qualified transportation expense if:

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- a) The expense was incurred at a time when the participant was not a participant in the Plan; or
- b) A claim for reimbursement of such expense has not been filed in accordance with the provisions of Section 2190.610 of this Part; or
- c) The expense was claimed as a credit or deduction on the participant's federal or State income tax form; or
- d) The expense is reimbursable under any other benefit plan maintained by the employer or purchased privately by the participant.

SUBPART H: MISCELLANEOUS

Section 2190.710 Illegality of a Particular Provision

The illegality of any provision of this Part shall not affect the other provisions of the Part and this Part shall be construed in all respects as if the invalid provisions were omitted.

Section 2190.720 Applicable Law

To the extent not preempted by federal law, the Plan shall be governed and construed according to the laws of the State of Illinois.

Section 2190.730 Effect on Pensions

Participation in the Plan will not affect the amount paid into a participant's pension nor reduce benefits received.

Section 2190.740 Effect on Social Security

Participation in the Plan reduces a participant's Social Security wages by the amount contributed and may therefore reduce the benefits received.

Section 2190.750 Benefits Solely from General Assets

The benefits provided by the Plan will be paid solely from the general assets of the State. The State will not be required to maintain any fund or segregate any amount for the benefit of any participant, and no participant or other person shall have any claim against, right to, or security or interest in, any asset of the State from which any payment under the Plan may be made.

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Section 2190.760 Nonassignability of Rights

The right of any participant to receive reimbursement under the Plan shall not be alienable by the participant by assignment or any other method except as provided in Section 2190.610 of this Part. Any attempt to alienate a participant's interest, other than as specifically authorized, will not be recognized.

Section 2190.770 Tax Consequences

Once enrolled, it shall be the obligation of each participant to determine whether each payment under Section 2190.420 is excludable from the participant's compensation for federal and State income tax purposes. Participants should notify the Department if there is reason to believe that any payment is not excludable.

Section 2190.780 Indemnification of State by Participants

If any participant receives reimbursements under Section 2190.610 that are not for qualified transportation expenses, the participant shall indemnify and reimburse the State for any liability the State may incur for failure to withhold federal or State income tax.

Section 2190.790 Right to Amend and Terminate Reserved

- a) The Department has established the Plan with the bona fide intention and expectation that it will be continued indefinitely, but the Department will have no obligation to maintain the Plan for any given length of time and may discontinue or terminate the Plan at any time without liability.
- b) Upon termination or discontinuance of the Plan, all elections and reductions in compensation relating to the Plan shall terminate, and the Department will pay any remaining balances to the participants as additional taxable compensation.

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Administration of Funds Created by the Wireless Emergency Telephone Safety Act
- 2) Code Citation: 83 Ill. Adm. Code 1000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1000.100	Repealed
1000.110	Repealed
1000.120	Repealed
1000.200	Repealed
1000.210	Repealed
1000.300	Repealed
1000.310	Repealed
1000.320	Repealed
1000.330	Repealed
1000.400	Repealed
1000.410	Repealed
1000.420	Repealed
1000.500	Repealed
1000.510	Repealed
1000.520	Repealed
1000.530	Repealed
1000.600	Repealed
1000.610	Repealed
1000.700	Repealed
1000.710	Repealed
1000.720	Repealed
1000.730	Repealed
1000.740	Repealed
1000.750	Repealed
1000.760	Repealed
1000.770	Repealed
1000.APPENDIX A	Repealed
1000.APPENDIX B	Repealed
1000.APPENDIX C	Repealed
- 4) Statutory Authority: Implementing and authorized by the Wireless Emergency Telephone Safety Act [50 ILCS 751].
- 5) Effective Date of Repealer: December 29, 2006

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED REPEALER

- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this Repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal was Published in the Illinois Register: March 24, 2006; 30 Ill. Reg. 5470
- 10) Has JCAR issued a Statement of Objection to this Repealer? No
- 12) Differences between proposal and final version: None
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 15) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: The Wireless Emergency Telephone Safety Act (Act) [50 ILCS 751] established a mechanism by which to fund the provision of wireless 9-1-1 and wireless E9-1-1 service. Central Management Services had this administrative responsibility and promulgated rules. Public Act 93-839 later amended the Act to give the responsibility of administering funds collected under authority of the Act to the Illinois Commerce Commission. The Commerce Commission adopted rules, effective December 1, 2005, as published in Volume 30, Issue 48 of the *Illinois Register*, dated November 28, 2005. Because CMS no longer has authority to administer the rules and the responsibility now belongs to another agency, the entire Part is repealed.
- 16) Information and questions regarding this adopted repealer shall be directed to:
Gina Wilson 217/785-1793
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706
- 17) Does this repealer require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
140.990	New Section
140.991	New Section
140.992	New Section
140.993	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: December 29, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 18, 2006; Ill. Reg. 13633
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version:
In Section 140.991(c)(3), added "to the patients enrolled with them under the PCCM". In subsection (c)(3)(A), deleted ", consistent with guidelines published by the American Academy of Pediatrics or American Academy of Family Physicians". In subsection (c)(3)(B), "served through" was changed to "within the scope of" and deleted ",consistent with guidelines published by the American College of Obstetricians and Gynecologists or the American Academy of Family Physicians." In subsection (d), the entire sentence was deleted.

In Section 140.992(b)(4), "Individuals" was changed to "Children". In subsection (b)(6), added a "s" to "Indian". Subsection (b)(12) text became subsection (b)(13), and new language was added under subsection (b)(12) to read "Children, under the age 21, who are receiving services through a family-centered, community based, coordinated care system that receives grant funds under section 501(a)(1)(D) of Title V of the Social

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Security Act or whose care is otherwise managed by the Division of Specialized Care for Children of the University of Illinois at Chicago or the Department."

In Section 140.993(a), deleted "assigned to" and added "enrolled with" and added the sentence "Such payments shall be made by the end of the month for which payment is being made". In subsection (e), added text ", DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will" and deleted "and the collar." In subsection (f), added "Boone, Bureau, Carroll, DeKalb, Fulton, Henderson, Henry, JoDaviess, Knox, LaSalle, Lee, Marshall, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Tazewell, Warren, Whiteside, Winnebago, and Woodford counties" and deleted "the northwest region of the State." In subsection (g), deleted "central and southern regions" and added "remainder".

- 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 these amendments replace any emergency amendments currently in effect? Yes
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.13	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.15	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.18	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.20	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.24	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.25	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.28	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.30	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.33	Amendment	30 Ill. Reg. 14748; September 15, 2006
140.1001	New Section	30 Ill. Reg. 14748; September 15, 2006
140.1002	New Section	30 Ill. Reg. 14748; September 15, 2006
140.1003	New Section	30 Ill. Reg. 14748; September 15, 2006
140.1004	New Section	30 Ill. Reg. 14748; September 15, 2006
140.1005	New Section	30 Ill. Reg. 14748; September 15, 2006
140.469	Amendment	30 Ill. Re g. 17719; November 13, 2006
140.526	Amendment	30 Ill. Reg. 17719; November 13, 2006
140.530	Amendment	30 Ill. Reg. 17719; November 13, 2006
140.860	Repeal	30 Ill. Reg. 17719; November 13, 2006
140.994	Amendment	30 Ill. Reg. 18860; December 15, 2006

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140.995	Amendment	30 Ill. Reg. 18860; December 15, 2006
140.996	Amendment	30 Ill. Reg. 18860; December 15, 2006
140.997	Amendment	30 Ill. Reg. 18860; December 15, 2006

15) Summary and Purpose of Amendments: These new sections establish what provider types can be a primary care provider (PCP) in the Primary Care Case Management (PCCM) Program, what obligations a PCP would have, and which recipients are eligible to participate in the PCCM program. In addition, the amendments set forth the monthly management fees that the Department would pay to PCPs.

16) Information and questions regarding these adopted amendments shall be directed to:

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring

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NOTICE OF ADOPTED AMENDMENTS

140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)

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- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Section

140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit (Repealed)
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of

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150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency

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amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1,

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1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency

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amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277,

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effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513,

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effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006.

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM**Section 140.990 Primary Care Case Management Program**

The Primary Care Case Management Program (PCCM) is a managed care model in which each enrollee has a medical home with a Primary Care Provider (PCP). Enrollees may pick their own doctor or clinic as their PCP if that provider is enrolled with HFS as a PCP. A medical home ensures that a single PCP knows about health care their enrollees receive and helps ensure enrollees get immunizations and other preventive health care, prevents duplication of services, ensures enrollees receive the most appropriate level of care, provides specialty referrals where appropriate, and improves the quality of care that an enrollee receives.

(Source: Added at 31 Ill. Reg. 388, effective December 29, 2006)

Section 140.991 Primary Care Provider Participation Requirements

- a) Providers eligible to be Primary Care Providers (PCPs) are physicians, Federally Qualified Health Centers (FQHCs), Rural Health Clinics (RHCs), school

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based/linked clinics, certified local health departments, hospital clinics per Section 140.461(f), and Encounter Rate Clinics (ERCs) per Section 140.461(b).

- b) PCPs shall meet the qualifications (see Section 140.12) that are applicable for all medical providers under the Illinois Medical Assistance Program.
- c) PCPs shall:
- 1) Establish and maintain hospital admitting and/or delivery privileges or arrangements for admission to a nearby hospital;
 - 2) Complete, sign, and comply with terms of the Department's Primary Care Provider Agreement;
 - 3) Provide to the patients enrolled with them under the PCCM program:
 - A) Periodic health screening (EPSDT), including age appropriate immunizations, and primary pediatric care as needed for children served in their practice;
 - B) Obstetrical care and delivery services as appropriate for pregnant women within the scope of their practice;
 - C) Provide risk assessments for pregnant women and/or children;
 - D) Provide medical care coordination, including arranging for diagnostic consultation and specialty care and communicating with the case management entity;
 - E) Maintain 24-hour telephone coverage for assessment and consultation.

(Source: Added at 31 Ill. Reg. 388, effective December 29, 2006)

Section 140.992 Populations Eligible to Participate in the Primary Care Case Management Program

- a) Individuals enrolled in programs administered by the Department under Article V of the Public Aid Code, the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, or the Veterans' Health Insurance

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Program Act and not excluded by subsection (b) or (c) of this Section are eligible to participate in the Primary Care Case Management (PCCM) program.

- b) Excluded populations are:
- 1) Individuals covered by Medicare;
 - 2) Children under age 21 receiving Supplemental Security Income (SSI);
 - 3) Department of Children and Family Services (DCFS) wards and individuals participating in the Subsidized Guardianship or Adoption Assistance programs;
 - 4) Children under age 21 covered under the Aid to the Aged, Blind and Disabled (AABD) program;
 - 5) Residents of nursing facilities;
 - 6) American Indian/Alaska natives;
 - 7) Spend-down individuals;
 - 8) Home- and Community-Based (HCBS) waiver enrollees;
 - 9) Individuals in community integrated living arrangements (CILAs);
 - 10) Individuals in presumptive eligibility programs;
 - 11) Refugees;
 - 12) Children, under the age 21, who are receiving services through a family-centered, community based, coordinated care system that receives grant funds under Section 501(a)(1)(D) of Title V of the Social Security Act or whose care is otherwise managed by the Division of Specialized Care for Children of the University of Illinois at Chicago or the Department.
 - 13) Individuals enrolled in the following programs with limited benefits:
 - A) Illinois Healthy Women;

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- B) All Kids Rebate and FamilyCare Rebate;
 - C) Illinois Cares Rx;
 - D) Transitional Assistance, age 19 or older;
 - E) Emergency Medical Only;
 - F) Hospice; and
 - G) Sexual Assault, Renal, and Hemophilia programs.
- c) Populations already managed are:
- 1) Individuals with high level Third Party Liability (TPL) private insurance; and
 - 2) Individuals in the Program for All-Inclusive Care for the Elderly (PACE) participants.

(Source: Added at 31 Ill. Reg. 388, effective December 29, 2006)

Section 140.993 Care Management Fees

- a) The Department shall pay Primary Care Providers (PCPs) enrolled in the Primary Care Case Management (PCCM) program the monthly care management fees set forth in subsection (b) of this Section for each individual enrolled with the PCP by the Department as of the beginning of the month. Such payments shall be made by the end of the month for which payment is being made.
- b) Monthly care management fees are:
 - 1) \$2.00 for children under age 21;
 - 2) \$3.00 for non-disabled non-elderly adults; and
 - 3) \$4.00 for disabled or elderly adults.

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- c) August 2006 is the first month for which Federally Qualified Health Centers (FQHCs) and Encounter Rate Clinics (ERCs) enrolled as PCPs are eligible to receive care management fees.
- d) September 2006 is the first month for which Rural Health Centers (RHCs) enrolled as PCPs are eligible to receive care management fees.
- e) January 2007 is the first month for which all other PCPs in Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will counties are eligible to receive care management fees.
- f) February 2007 is the first month for which all other enrolled PCPs in Boone, Bureau, Carroll, DeKalb, Fulton, Henderson, Henry, JoDaviess, Knox, LaSalle, Lee, Marshall, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Tazewell, Warren, Whiteside, Winnebago, and Woodford counties will be eligible to receive care management fees.
- g) April 2007 is the first month for which all other enrolled PCPs in the remainder of the State are eligible to receive care management fees.

(Source: Added at 31 Ill. Reg. 388, effective December 29, 2006)

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- 1) Heading of the Part: Recipient's Property
- 2) Code Citation: 59 Ill. Adm. Code 110
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
110.05	New Section
110.30	New Section
- 4) Statutory Authority: Implementing Section 20 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/20] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and by Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5]
- 5) Effective Date of Amendments: December 27, 2006
- 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 Proposal Published in the Illinois Register: August 11, 2006; 30 Ill. Reg. 13255
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

Several grammatical changes were made throughout the rule.

 - A) Section 110.5 Definitions was added to this rulemaking to include definitions for contraband items and restricted items.
 - B) In Section 110.30(a)(3), "but prior approval shall not be required before an individual may obtain use of his or her personal funds" was added at the end of the sentence.

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- C) In Section 110.30(a)(3)(B), "or intend to receive during visits with family or friends" was added before " but are not required to seek prior approval".
- D) In Section 110.30(a)(4), "The facility shall not distinguish between CDs and DVDs that are burned, second hand or factory sealed in the overall number of CDs and DVDs allowed." was removed from the text.
- E) In Section 110.30(c)(1), "digital audio files (e.g., MP3 files, iTunes, etc.)," was added before "and related items".
- F) In Section 110.30(c)(1), "blank media (blank tape cassettes, blank video tapes, blank compact discs, etc.)," was added before "and media storage devices".
- G) In Section 110.30(g), "The facility director shall conduct training on this Section at least once a year and a written record of such training will be made." was added.
- 12) Have all 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? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of Rulemaking: This rulemaking will allow the Department to keep contraband, dangerous, and restricted items out of the possession of patients of state mental health facilities. This safeguards the patients, staff and the public and allows them continuous protection.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

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- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

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TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICESPART 110
RECIPIENT'S PROPERTY

Section

110.5	Definitions
110.10	Disposition of unclaimed personal property
110.20	Handling of recipient's personal property other than clothing
110.30	Personal Property in State Mental Health Facilities

AUTHORITY: Implementing Section 20 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/20] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and by Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

SOURCE: Effective October 1, 1969; amended and effective November 1, 1974; codified at 5 Ill. Reg. 10724; amended at 11 Ill. Reg. 7633, effective April 15, 1987; amended at 15 Ill. Reg. 14435, effective October 1, 1991; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; emergency amendment at 30 Ill. Reg. 13527, effective July 31, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 412, effective December 27, 2006.

Section 110.5 Definitions

"Contraband items" shall be defined as items that are illegal for an individual to have in Their possession or are legal but considered dangerous for patients to have on units, in accordance with subsection (a)(1), and are disposable. Such items shall be confiscated by staff of the Security Department and turned over to the proper authorities or destroyed.

"Restricted items" shall be defined as lawful items that may be returned to the patient or his/her designee upon discharge but are restricted in accordance with subsection (a)(1). Such items shall be restricted from being in the possession of the patient while a patient is at the facility.

(Source: Added at 31 Ill. Reg. 412, effective December 27, 2006)

Section 110.30 Personal Property in State Mental Health Facilities

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- a) Individuals may possess a reasonable amount of personal property for personal use under the following conditions:
- 1) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission so long as the restriction does not otherwise conflict with the rights provided in this Section.
 - 2) Upon arrival at the facility, the individual's belongings will be inventoried and checked against the contraband and restricted items list. Items that are contraband/restricted will not be given to the individual. Staff shall notify the individual of the contraband and restricted items and ask whether the items should remain in personal storage or whether the item should be sent to a family member or friend. Staff shall post a list of contraband and restricted items in a common area of the unit.
 - 3) Property must be approved by the individual's treatment team prior to use. Any personal property that the treatment team determines, in the exercise of its professional judgment, may pose harm to the individual or to others shall be restricted. Property shall not be restricted on political, philosophical or religious grounds. Property intended as a medically reasonable accommodation of a known disability shall not be restricted except when determined by a physician and the treatment team, in exercise of their professional judgment, that the accommodation may pose harm to the individual or others. A restriction of rights shall be issued in accordance with the Mental Health and Developmental Disabilities Code [405 ILCS 5/2-201] within 48 hours. When the restriction of rights is issued, the treatment team member shall inform the individual of his/her ability to request a review under subsection (a)(5). The individual will have the option of placing the personal property in storage or returning it to its place of origin.
 - A) Personal property approved by staff for usage by an individual may not be shared with any other individual unless the second individual is approved for such usage in accordance with this Section. Violation of this subsection (a)(3)(A) may result in a restriction of rights, including loss of use of the shared property, as determined by the treatment team exercising its professional judgment.

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- B) Individuals may request prior approval, in accordance with subsection (a)(3), from designated staff for any property they intend to have sent to the facility or intend to receive during visits with the family or friends, but are not required to seek prior approval. Property that has not been submitted for prior approval must nonetheless be approved, in accordance with subsection (a)(3) and comply with all other Sections of this Part before an individual may have access to it.
- C) Once approved by the treatment team, personal property must be inspected by designated facility staff prior to entering the treatment unit. Items approved for possession by an individual may be indelibly marked or identified as belonging to that individual prior to entering the treatment unit.
- D) Media and media storage devices, including but not limited to print media, tapes, DVDs, CDs, video games and digital music players (MP3 players, Ipods, etc.) and related items, shall be considered personal property and are subject to this Section, except as noted in subsection (c).
- E) Computers, peripherals and related items are covered by 59 Ill. Adm. Code 109.
- 4) Property maintained in each individual's room must fit within available storage space. In addition to the storage available in each individual's room, each individual will be permitted a designated amount of storage for personal property and for clothing. The facility may set limits on off-unit storage in accordance with the Mental Health and Developmental Disabilities Code [405 ILCS 5/2-104]. Additional space may be made available for storage of medically approved reasonable accommodations of a known disability.
- 5) If an individual does not agree with the decision of the treatment team concerning the restriction of an item, the individual may request a review of that decision by a clinician who is not part of the treatment team. Decisions concerning contraband or items on the restricted list in subsection (a)(1) are not subject to review.

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- A) All such requests shall be forwarded to the facility director, or designee, who shall assign a clinician, who is not part of the treatment team that made the decision, to review the decision of the treatment team.
- B) The individual who requested the review shall have the opportunity to speak with the clinician performing the review before a recommendation is issued. The assigned clinician shall schedule to speak with the individual requesting the review within 10 days after being assigned. If the individual does not wish to speak, that position shall be noted in the recommendation.
- C) Within two weeks after being assigned the request to review, the clinician shall issue a recommendation, with a copy going to the individual who requested the review and another going to the treatment team. The treatment team shall evaluate the recommendation of the clinician and review its decision.
- b) Use and Possession of Individual Money in State Operated Facilities
- 1) If an individual chooses to keep personal funds for use, those funds shall be kept in accordance with Section 110.20. If an individual's personal funds are deposited in a facility-created trust fund account, Quarterly Reports of Individual Trust Fund transactions that are issued will be forwarded directly to the individual when issued. Treatment team members may review Trust Fund transactions only upon good cause and the approval of the facility director.
- 2) An individual may use his or her personal funds as he or she chooses, provided the use of any property purchased complies with subsection (a).
- A) A facility may monitor the outgoing purchases an individual makes only if that individual is subject to a do not call/no contact list, an order of protection, or a relevant restriction of rights issued pursuant to the Mental Health and Developmental Disabilities Code [405 ILCS 5/2-201].
- B) An individual's access to his or her personal funds shall only be restricted if his or her treatment team makes a professional clinical judgment that unrestricted access creates a harm to the individual

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or others. If access is restricted, a restriction of rights notice shall be completed in accordance with the Mental Health and Developmental Disabilities Code [405 ILCS 5/2-201].

C) An individual shall be required to fill out a withdrawal form before gaining use of his or her personal funds held within the trust fund. The facility staff may, and should if requested, advise the individual if property the individual intends to purchase is not likely to be approved for use in accordance with subsection (a)(3), but prior approval shall not be required before an individual may obtain use of his or her personal funds.

D) If an individual withdraws all, or substantially all, of the money in the trust fund at one time, the treatment staff shall be immediately notified. The facility director may establish a minimal amount that may be withdrawn at one time that will not require notice to the treatment staff notwithstanding the notification requirement.

3) Individuals may use funds at facility vending machines and/or commissaries where available. Facilities may offer a debit card or other system for such purposes.

c) Media Usage

1) For the purpose of this Section, "media" means print media (e.g., newspapers, magazines, books, etc.), audio media (e.g., records, cassette tapes, compact discs, etc.), visual media (e.g., video tapes, video games and associated paraphernalia, DVDs, blank media (blank tape cassettes, blank video tapes, blank compact disks, etc.), and media storage devices (e.g., MP3 players, Ipods, etc.), digital audio files (e.g., MP3 files, iTunes, etc.), and related items. Media is a type of property and subject to the provisions of this Section.

2) DVD/CD/Video Game Usage

A) Individual Use: Personal property approved by staff for usage by an individual may not be shared with any other individual unless the second individual is approved for such usage in accordance with subsection (a)(3).

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- B) Group Use: Facility staff may allow DVD/CD usage for group display/usage. In such cases, the unit director shall exercise his or her professional clinical judgment to determine appropriate DVD/CD usage, taking into account the risk of harm to all possible users.
 - C) DVDs or video tapes shall not be categorically restricted on the basis of their Motion Picture Association Rating. Individuals shall be able to possess DVDs with PG-13 and R-ratings without restriction unless an individualized professional clinical judgment is made in accordance with subsection (a)(3).
 - D) CDs with a "Parental Advisory" warning label on them shall not be categorically restricted. Individuals shall be able to possess CDs without restriction unless an individualized professional clinical judgment is made in accordance with subsection (a)(3).
 - E) Video games shall not be categorically restricted on the basis of their Entertainment Software Ratings Board (ESRB) rating. Individuals shall be able to possess video games without restriction unless an individualized professional clinical judgment is made in accordance with subsection (a)(3).
- 3) Facility staff may only inspect the contents of an individual's media pursuant to subsection (a)(3).
- A) CDs/DVDs can be restricted under subsection (a)(1) only if there is a facility wide determination that CDs/DVDs are dangerous objects, irrespective of their content.
 - B) The facility director may not impose an across the board restriction on the possession and use of media based on its content unless that content violates the law.
- d) Contraband
Notwithstanding any other Section of this Part, any property that is determined to be contraband shall not be allowed in any State operated facility.
- 1) Contraband includes: Alcoholic beverages, any drug not dispensed by the facility, firearms, explosives, and weapons.

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- 2) Contraband items shall be confiscated by staff of the security department and turned over to the proper authorities or destroyed.
 - 3) "Burned" CDs/DVDs and second-hand CDs/DVDs shall not be listed as contraband or restricted items, except as provided under subsection (a)(3) or (c)(3)(A). Individuals shall be allowed to possess such items in accordance with subsection (a)(3).
 - 4) Sexually explicit material shall not be listed as a contraband item. An individual's access to such materials may be restricted in accordance with subsection (a)(3). Public display or sharing of sexually explicit materials may result in the confiscation and restriction of those items as provided in subsection (a)(3).
- e) Restrictions on an individual's right to possess personal property shall not be imposed as punishment, in response to an individual declining to take medication, or in response to a failure to undergo other treatment recommended by an individual's treatment team. However, if an individual's clinical situation changes, the individual's treatment team may reconsider the possession of property in accordance with this Section.
 - f) This Section applies to all adult individuals admitted to a Department mental health facility.
 - g) The facility director shall conduct training on this Section at least once a year and a written record of such training will be made.

(Source: Added at 31 Ill. Reg. 412, effective December 27, 2006)

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- 1) Heading of the Part: Determination of Need (DON) and Resulting Service Cost Maximums (SCMs)
- 2) Code Citation: 89 Ill. Adm. Code 679
- 3) Section Number: 679.50 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) Effective Date of Amendment: December 29, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A statement that a copy of the adopted amendment, 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 Published in the Illinois Register: 30 Ill. Reg. 9265; May 19, 2006
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: In Section (f) and (f)(2), deleted "DHFS" and added "HFS".
- 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 Amendment: This rulemaking provides that customers who cannot be served under the waiver programs' Service Cost Maximums and who meet the criteria established by HFS, may be eligible for an exceptional care rate. Companion amendments are also being proposed to 89 Ill. Adm. Code 682 and 684.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 16) Information and questions regarding this adopted amendment shall be directed to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 679
DETERMINATION OF NEED (DON) AND
RESULTING SERVICE COST MAXIMUMS (SCMs)

Section	
679.10	General Provisions
679.20	Composition of the DON
679.30	Scoring of the DON Except for Respite Cases
679.40	Scoring the DON for Respite Cases
679.50	Service Cost Maximums (SCMs)

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5062, effective March 21, 1995; amended at 20 Ill. Reg. 6303, effective April 18, 1996; amended at 21 Ill. Reg. 2674, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; emergency amendment at 22 Ill. Reg. 2328, effective January 12, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10445, effective May 29, 1998; emergency amendment at 22 Ill. Reg. 16031, effective August 14, 1998, for a maximum of 150 days; emergency expired on January 11, 1999; amended at 23 Ill. Reg. 1615, effective January 20, 1999; amended at 23 Ill. Reg. 7492, effective June 17, 1999; emergency amendment at 23 Ill. Reg. 10526, effective August 10, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 285, effective December 23, 1999; amended at 24 Ill. Reg. 6563, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 9966, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17126, effective November 3, 2000; emergency amendment at 27 Ill. Reg. 17428, effective November 6, 2003, for a maximum of 150 days; emergency expired April 3, 2004; amended at 28 Ill. Reg. 7056, effective April 30, 2004; emergency amendment at 28 Ill. Reg. 15178, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 31 Ill. Reg. 422, effective December 29, 2006.

Section 679.50 Service Cost Maximums (SCMs)

- a) For each individual meeting the minimum required DON scores for eligibility (see 89 Ill. Adm. Code 682), there is a corresponding Service Cost Maximum (SCM) for his/her DON score which is the maximum amount that may be

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

expended for services through HSP for an individual who chooses HSP services over institutionalization. This amount directly corresponds to the amount the State would expect to pay for the nursing care component of institutionalization if the individual chose institutionalization.

- b) The monthly SCMs for individuals served under the HSP Disabled Individual Medicaid Waiver are:

DON Range	11/1/03 SCM	8/1/04 SCM	8/1/05 SCM	8/1/06 SCM	8/1/07 SCM
29-32	\$1,154	\$1,194	\$1,249	\$1,329	\$1,488
33-40	\$1,326	\$1,371	\$1,435	\$1,527	\$1,710
41-49	\$1,475	\$1,526	\$1,597	\$1,699	\$1,902
50-59	\$1,766	\$1,827	\$1,912	\$2,034	\$2,277
60-69	\$2,076	\$2,147	\$2,247	\$2,390	\$2,677
70-79	\$2,244	\$2,322	\$2,430	\$2,585	\$2,894
80-100	\$2,412	\$2,495	\$2,612	\$2,778	\$3,111

- c) The monthly SCMs for individuals served under the HSP AIDS Medicaid Waiver are:

DON Range	11/1/03 SCM	8/1/04 SCM	8/1/05 SCM	8/1/06 SCM	8/1/07 SCM
29-32	\$1,486	\$1,538	\$1,609	\$1,712	\$1,917
33-40	\$2,228	\$2,305	\$2,412	\$2,566	\$2,873
41-49	\$2,970	\$3,073	\$3,216	\$3,421	\$3,831
50-59	\$3,714	\$3,842	\$4,021	\$4,278	\$4,790
60-69	\$4,458	\$4,611	\$4,827	\$5,134	\$5,749
70-79	\$5,198	\$5,378	\$5,628	\$5,987	\$6,704
80-100	\$5,943	\$6,148	\$6,435	\$6,845	\$7,664

- d) The monthly SCMs for individuals served under the HSP Brain Injury Medicaid Waiver are:

<u>DON Range</u>	<u>11/1/03 SCM</u>	<u>8/1/04 SCM</u>	<u>8/1/05 SCM</u>	<u>8/1/06 SCM</u>	<u>8/1/07 SCM</u>
<u>29-32</u>	<u>\$1,286</u>	<u>\$1,331</u>	<u>\$1,393</u>	<u>\$1,482</u>	<u>\$1,659</u>
<u>33-40</u>	<u>\$1,427</u>	<u>\$1,476</u>	<u>\$1,545</u>	<u>\$1,644</u>	<u>\$1,841</u>
<u>41-49</u>	<u>\$1,586</u>	<u>\$1,640</u>	<u>\$1,717</u>	<u>\$1,826</u>	<u>\$2,045</u>

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<u>50-59</u>	<u>\$1,901</u>	<u>\$1,966</u>	<u>\$2,058</u>	<u>\$2,189</u>	<u>\$2,451</u>
<u>60-69</u>	<u>\$2,234</u>	<u>\$2,311</u>	<u>\$2,419</u>	<u>\$2,573</u>	<u>\$2,881</u>
<u>70-79</u>	<u>\$2,415</u>	<u>\$2,499</u>	<u>\$2,615</u>	<u>\$2,782</u>	<u>\$3,115</u>
<u>80-100</u>	<u>\$2,597</u>	<u>\$2,686</u>	<u>\$2,811</u>	<u>\$2,990</u>	<u>\$3,349</u>

d) ~~The SCM for individuals served through the Medicaid Waiver for Ventilator Assisted Individuals shall be no higher than the comparable institutionalized cost of care for the individual, less the costs for equipment and supplies.~~

e) The SCM for an individual may be exceeded on a monthly basis to meet a temporary increase in need for services as long as the average monthly cost for services during the twelve month period does not exceed the SCM. Such an increase in services shall not last more than 3 months.

f) The exceptional care rate (ECR) for individuals who cannot be served under an HSP waiver's SCM is established by the Department of Healthcare and Family Services (HFS) under 89 Ill. Adm. Code 140.569(i). This rate is comparable to the assessed cost for institutionalization and shall not be exceeded. To determine the exceptional care rate for an individual served under an HSP waiver program:

- 1) the nearest approved exceptional care nursing facility to the individual's home is identified;
- 2) the exceptional care rate for that facility is requested from HFS; and
- 3) the daily exceptional care rate is multiplied by 30.3 to establish a monthly average.

f) ~~The monthly SCMs for individuals served under the Medicaid Waiver for Persons with a Brain Injury are:~~

DON Range	11/1/03 SCM	8/1/04 SCM	8/1/05 SCM	8/1/06 SCM	8/1/07 SCM
29-32	\$1,286	\$1,331	\$1,393	\$1,482	\$1,659
33-40	\$1,427	\$1,476	\$1,545	\$1,644	\$1,841
41-49	\$1,586	\$1,640	\$1,717	\$1,826	\$2,045
50-59	\$1,901	\$1,966	\$2,058	\$2,189	\$2,451
60-69	\$2,234	\$2,311	\$2,419	\$2,573	\$2,881
70-79	\$2,415	\$2,499	\$2,615	\$2,782	\$3,115
80-100	\$2,597	\$2,686	\$2,811	\$2,990	\$3,349

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(Source: Amended at 31 Ill. Reg. 422, effective December 29, 2006)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Eligibility
- 2) Code Citation: 89 Ill. Adm. Code 682
- 3) Section Number: 682.100 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) Effective Date of Amendment: December 29, 2006
- 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 in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: May 19, 2006; 30 Ill. Reg. 9271
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version:

In the main source note, changed the "November 8, 2005" to "2004". Added "emergency expired April 6, 2005".

In Section 682.100 (b), changed "DHFS" to "HFS" and "the Department of Healthcare and Family Services" to "HFS".

In Section 682.100 (g), deleted the comma after "brain injury" and deleted the 2nd "that" after "indicates".
- 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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Amendment: This rulemaking provides that a physician's certification will be done every two years. Implementing this rule change with the exceptional care rulemaking will provide for greater continuity of services and more accurate case reviews, along with assisting HSP to better serve children transitioning out of the DSCC waiver. Companion amendments are also adopted in this issue of the Illinois Register on 89 Ill. Adm. Code 679 and 684.
- 16) Information and questions regarding this adopted amendment shall be directed to:
- Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
- 217/785-9772
- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 682
ELIGIBILITY

SUBPART A: GENERAL APPLICABILITY

Section
682.10 General Applicability

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section
682.100 General Eligibility Criteria

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section
682.200 Assets Limitation
682.210 Transfer of Assets
682.220 Exempt Assets
682.230 Assets Held in Joint Ownership
682.240 Income Allowances (Repealed)
682.250 Cost Sharing Provisions (Repealed)
682.260 General Exceptions to Cost Share Provisions (Repealed)

SUBPART D: EFFECT OF OTHER SERVICES ON HSP

Section
682.300 Effect of Other Services on HSP

SUBPART E: REDETERMINATION OF ELIGIBILITY

Section
682.400 Redetermination Requirements
682.410 Redetermination Time Frames

SUBPART F: GRANDFATHERING PROVISIONS

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Section

682.500	Exceptions to Eligibility Standards
682.510	Exceptions to Cost Sharing Provisions (Repealed)
682.520	Exceptions to Service Cost Maximums

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5070, effective March 21, 1995; amended at 20 Ill. Reg. 6307, effective April 18, 1996; amended at 20 Ill. Reg. 15749, effective December 3, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 2226, effective January 12, 1998; amended at 23 Ill. Reg. 3981, effective March 19, 1999; amended at 23 Ill. Reg. 14450, effective December 6, 1999; amended at 24 Ill. Reg. 7724, effective May 12, 2000; amended at 25 Ill. Reg. 6278, effective May 15, 2001; emergency amendment at 28 Ill. Reg. 15183, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 31 Ill. Reg. 428, effective December 29, 2006.

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section 682.100 General Eligibility Criteria

In order to receive services through HSP a customer must:

- a) be a citizen of the United States, or be an individual who is living permanently in the United States after having been legally admitted;
- b) have applied for, be a recipient of, or be found eligible for Medicaid benefits through [HFS/DPA](#) and within 60 days after the date of application for HSP provide verification to the HSP counselor of the aforementioned. Customers may be found eligible for Medicaid and be placed on Spend Down. However, a customer is not required to meet the eligibility criteria for Medicaid to receive benefits, nor is Medicaid eligibility or verification of application required to receive Interim Services (see 89 Ill. Adm. Code 682). The customer must agree to apply for Medicaid, and cooperate with [HFS](#) ~~the Department of Public Aid~~, to receive Interim Services. Customers having applied for HSP services prior to October 1, 1991, may choose to apply for Medicaid;
- c) be a resident of the State of Illinois;

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- d) be under the age of 60 at the time of application for HSP services, unless the individual is applying for services under the [HSP AIDS Medicaid Waiver](#) ~~for Persons with AIDS~~ or [under the HSP for Persons with a Brain Injury Medicaid Waiver](#), in which case there is no age criteria for application;
- e) have a severe disability which is expected to last for at least 12 months or for the duration of life;
- f) be an individual with a disability who is in need of long-term care, as determined by the DON score completed as a result of a prescreening (89 Ill. Adm. Code 679) or application for HSP services. In order to be determined to have met this criteria, the individual must receive a DON score of at least 15 points on part A, which includes, if applicable, the 10 points from the Mini-Mental Examination, with a total DON score of at least 29 points;
- g) [with DHS assistance](#), obtain certification [at least every two years](#) from a physician or from a neuropsychologist for a person with a brain injury [\(as defined in Section 676.30\(r\)\)](#), ~~with DHS assistance~~, that [indicates](#) the individual is in need of long-term care and this care can safely and adequately be provided in the individual's home [according to the physician and as provided in](#) the HSP Service Plan ~~developed for the individual~~; and
- h) not require in-home services that are expected to cost more than the cost the State would pay for institutional care for an individual with a similar DON score.

(Source: Amended at 31 Ill. Reg. 428, effective December 29, 2006)

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- 1) Heading of the Part: Service Planning and Provision
- 2) Code Citation: 89 Ill. Adm. Code 684
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
684.70	Amendment
684.75	Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]
- 5) Effective Date of Amendments: December 29, 2006
- 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 Proposal Published in the Illinois Register: May 19, 2006; 30 Ill. Reg. 9276
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

In the main source note, added "Reg." before 15188, and added "emergency expired April 6, 2005; amended at 29 Ill. Reg. 16504, effective October 17, 2005".

In Section 684.70 (b), changed "DHFS" to "HFS".

In Section 684.75, added "a)" before first sentence, changed "a" to "1" and "b" to "2", and added "b)" before the last sentence.
- 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

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- 15) Summary and Purpose of Amendments: This rulemaking provides that customers who cannot be served under the waiver programs' Service Cost Maximums and who meet the criteria established by HFS may be eligible for an exceptional care rate. This rulemaking also provides that a physician's certification will be done every two years. Implementing this rulemaking will provide for greater continuity of services and more accurate case reviews, along with assisting HSP to better serve children transitioning out of the DSCC waiver. Companion amendments are also adopted on 89 Ill. Adm. Code 679 and 682.
- 16) Information and questions regarding these adopted amendments shall be directed to:
- Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
- 217/785-9772
- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 684
SERVICE PLANNING AND PROVISION

Section

684.10	Service Plan
684.20	Procuring an Appropriate Service Provider
684.30	Family Members as Service Providers
684.40	Distribution of the Service Plan
684.50	Service Plan Content
684.60	Provision of Services
684.70	Service Planning Limitations
684.75	Required Physician's Certification of HSP Service Plan
684.80	Interim Services
684.90	Coordination of HSP and Other Services
684.100	Denial or Termination of HSP Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5129, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18955, effective October 1, 1998; amended at 23 Ill. Reg. 6470, effective May 17, 1999; amended at 23 Ill. Reg. 12644, effective October 4, 1999; amended at 24 Ill. Reg. 2687, effective February 2, 2000; amended at 24 Ill. Reg. 10220, effective June 27, 2000; emergency amendment at 28 Ill. Reg. 15188, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 29 Ill. Reg. 16504, effective October 17, 2005; amended at 31 Ill. Reg. 433, effective December 29, 2006.

Section 684.70 Service Planning Limitations

- a) For customers served ~~under a through-the-standard~~ Medicaid Waiver program administered by DHS-DRS, all services listed on the Service Plan must be necessary to meet an unmet care need of the individual or, for respite cases, to provide relief to the caregiver, and must be within the SCM for the DON score attained by the customer as a result of the determination or redetermination of eligibility.

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- b) ~~Customers who cannot be served under the HSP waiver programs' SCM and who meet the criteria established by HFS, may be eligible for an exceptional care rate (89 Ill. Adm. Code 140.569(a)(2)). The monthly cost of these services provided through the Home Services Program shall not exceed the exceptional care rate. For customers receiving services through the Medicaid Waiver for Persons with AIDS, all services listed on the Service Plan must be necessary to meet an unmet care need of the customer or, for respite cases, to provide relief to the caregiver, and must be within the SCM for the DON score attained by the customer as a result of the determination or redetermination of eligibility.~~
- e) ~~The SCM may be exceeded for ventilator assisted individuals (VAIs) who are receiving HSP services but have had established, through DPA, a higher rate less the cost of supplies and equipment established by DPA for institutional placement. In such cases, the amount that may be expended for HSP services shall not exceed the special care rate established for that customer by DPA.~~
- d) ~~For individuals served through the Medicaid Waiver for Persons with Brain Injury, all services listed on the Service Plan must be necessary to provide a package of HSP services, including the specific community based services, to meet their unmet service needs. The cost of the services must be within the SCM for the DON score attained by the individual as a result of the determination or redetermination of eligibility.~~

(Source: Amended at 31 Ill. Reg. 433, effective December 29, 2006)

Section 684.75 Required Physician's Certification of HSP Service Plan

- a) A Physician's Certification (IL 488-1780) shall be obtained from the customer's physician when:
- 1a) the customer's initial service plan is developed (Section 684.10); and
- 2b) ~~at least every two years during the redetermination of eligibility after any service cost increase longer than 90 days, when the increase is caused by an increase in the hours of service or in the type of service that raises the service cost to a level higher than allowed by the customer's current DON score;~~
- e) ~~the cost of services decreases for a period longer than 90 days to a level lower~~

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~~than the SCM for the customer's current DON score and the decrease is due to the customer's health improving; or~~

~~d) during the redetermination of eligibility (89 Ill. Adm. Code 682: Subpart E) either:~~

~~1) the service costs increase to a level higher than the customer's previous DON score SCM due to an increase in the hours of service;~~

~~2) the type of service increases to a level higher than the customer's previous DON score SCM; or~~

~~3) the service costs decrease to a lower SCM level than the customer's previous DON score because of an improvement in the customer's health.~~

b) The services provided to the customer shall not be interrupted while the new Physician's Certification is being secured by DHS-DRSORS/HSP.

(Source: Amended at 31 Ill. Reg. 433, effective December 29, 2006)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
702.101	Amend
702.102	Amend
702.103	Amend
702.104	Amend
702.105	Amend
702.106	Amend
702.107	Amend
702.108	Amend
702.109	Amend
702.110	Amend
702.120	Amend
702.122	Amend
702.123	Amend
702.124	Amend
702.125	Amend
702.126	Amend
702.140	Amend
702.141	Amend
702.142	Amend
702.143	Amend
702.144	Amend
702.145	Amend
702.146	Amend
702.147	Amend
702.148	Amend
702.149	Amend
702.150	Amend
702.151	Amend
702.152	Amend
702.160	Amend
702.161	Amend
702.162	Amend
702.163	Amend
702.164	Amend
702.181	Amend

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702.186 Amend

- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The amendments include references to incorporations by reference that are amended in this proceeding. The amendments to the references relating to Part 702, however, are all corrective or stylistic, and none changes an incorporation in any substantive way.
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 6675; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in its 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The following briefly describes the subjects and issues involved in the consolidated docket R06-16/R06-17/R06-18 rulemaking of which the amendments to Part 702 are a single segment. Also affected are 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, which are covered by separate notices in this issue of the Illinois Register. A comprehensive description is contained in the Board's 11/16/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

This proceeding updates the Illinois underground injection control (UIC), Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF), and Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during a single update period. The docket and time period that is involved in this proceeding is the following:

R06-16	Federal UIC amendments that occurred during the period July 1, 2005 through December 31, 2005.
R06-17	Federal MSWLF amendments that occurred during the period July 1, 2005 through December 31, 2005.
R06-18	Federal hazardous waste amendments that occurred during the period July 1, 2005 through December 31, 2005 and March 23, 2006.

The consolidated R06-16/R06-17/R06-18 docket amends rules in Parts 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813,

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and 814. The amendments to the various Parts are inter-related. The following table briefly summarizes the federal actions in the update period:

August 1, 2005 (70 Fed. Reg. 44150)	USEPA corrected the hazardous waste and MSWLF segments of its June 14, 2005 (70 Fed. Reg. 34538) amendments to allow the use of alternative methods to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods."
August 5, 2005 (70 Fed. Reg. 45508)	USEPA adopted amendments that include mercury-containing devices under the Universal Waste Rule, removing these materials from regulation as hazardous waste when regulated according to the universal waste provisions.
September 8, 2005 (70 Fed. Reg. 53420)	USEPA adopted new standardized permit provisions for hazardous waste treatment and storage facilities in a new 40 C.F.R. 267. The federal amendments included conforming amendments to the existing permit provisions of 40 C.F.R. 124 and 270 and the substantive hazardous waste rules of 40 C.F.R. 260 and 261.
October 4, 2005 (70 Fed. Reg. 57769)	USEPA amended the wastewater "headworks" exemption from the definition of hazardous waste. It added benzene and 2-ethoxyethanol to the list of solvents whose mixtures are exempted from the definition. It added scrubber waters that are derived from the combustion of any of the excluded solvents to the exclusion. It now allows the hazardous waste generator to measure solvent levels directly at the headworks of the wastewater treatment plant to determine whether the wastewater mixture is exempt. Finally, it extended the eligibility for the <i>de minimis</i> exemption to listed hazardous wastes other than solely to discarded commercial chemical products and to non-manufacturing facilities.
October 12, 2005 (70 Fed. Reg. 59402)	USEPA finalized the Hazardous Waste Combustor Rule. This rule imposes national emission standards for hazardous air pollutants (NESHAPs) on hazardous waste combustors. USEPA calls incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous waste "Phase I sources," since it adopted standards for these sources on September 30, 1999 (at 64 Fed. Reg.

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	52828). USEPA calls industrial, commercial, or institutional boilers and process heaters and hydrochloric acid production furnaces that burn hazardous waste "Phase II sources." The present amendments include the Phase II standards and final replacement standards to replace interim standards adopted February 13, 2002 for Phase I sources (in response to litigation in <u>Cement Kiln Recycling Coalition v. EPA</u> , 255 F.3d 855 (D.C. Cir. 2001) (vacatur of portions of the original Phase I standards)).
October 13, 2005 (70 Fed. Reg. 59848)	USEPA adopted requirements for electronic filing of documents, such as permit applications and reports, under the various federal programs, including federally authorized state programs. The amendments affect, <i>inter alia</i> , the drinking water, UIC, MSWLF, hazardous waste, underground storage tank, and wastewater pretreatment regulations.

Of these actions, no Board action was necessary on one: the 8/1/05 USEPA amendments. That action corrected the 6/14/05 (70 Fed. Reg. 34538) amendments relating to the use of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." This August 1, 2005 action was included in the prior consolidated update docket, UIC Update, USEPA Regulations (January 1, 2005 through June 30, 2005), R06-5, RCRA Subtitle D Update, USEPA Regulations (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-6, and RCRA Subtitle C Update, USEPA Regulations (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-7 (Jan. 5, 2006 and Feb. 2, 2006). No further action is necessary in this matter.

In addition to the federal actions that fall within the timeframe of this docket, the Board included one additional federal action that occurred later. This additional action directly impacted one of the actions that USEPA took within the timeframe that is involved.

March 23, 2006 (71 Fed. Reg. 14655)	USEPA administratively stayed the effective date of the October 12, 2006 (70 Fed. Reg. 59402) amendments to the Hazardous Waste Combustor Rule. USEPA stayed the effective date of the rules when granting a request for reconsideration of a segment of the amendments. USEPA simultaneously proposed amendments to the rule (at 71 Fed. Reg. 14665). The 90-day stay of the effective date expires June 23, 2006.
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Thus, the Board is acting in this consolidated R06-16/R06-17/R06-18 docket on the following USEPA amendments:

August 5, 2005	Amendments including mercury-containing devices under the Universal Waste Rule.
September 8, 2005	Standardized permit provisions for hazardous waste treatment and storage facilities.
October 4, 2005	Amendments to the wastewater headworks exemption from the definition of hazardous waste.
October 12, 2005	Amendments that finalize the Hazardous Waste Combustor Rule, imposing NESHAPs on Phase II hazardous waste combustor sources and amending the interim standards for Phase I sources.
October 13, 2005	Requirements for electronic filing of required documents in federally-authorized programs.
March 23, 2006	Administrative stay of the October 12, 2006 Hazardous Waste Combustor Rule amendments.

Specifically, the amendments to Part 702 implement segments of the 9/8/05 and 10/13/05 federal amendments. The amendments incorporate elements of the Standardized Permit Rule into the general permit provisions of the Illinois regulations. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations. This rulemaking includes a number of corrective and stylistic amendments to the base text of Part 702 that are not directly derived from the current federal amendments.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

Michael J. McCambridge
Staff Attorney

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Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6924

Request copies of the Board's opinion and order of 11/16/06, 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:

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

PART 702

RCRA AND UIC PERMIT PROGRAMS

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: PERMIT APPLICATIONS

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

SUBPART C: PERMIT CONDITIONS

Section	
702.140	Conditions Applicable to all Permits
702.141	Duty to Comply
702.142	Duty to Reapply

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702.143	Need to Halt or Reduce Activity Not a Defense
702.144	Duty to Mitigate
702.145	Proper Operation and Maintenance
702.146	Permit Actions
702.147	Property Rights
702.148	Duty to Provide Information
702.149	Inspection and Entry
702.150	Monitoring and Records
702.151	Signature Requirements
702.152	Reporting Requirements
702.160	Establishing Permit Conditions
702.161	Duration of Permits
702.162	Schedules of Compliance
702.163	Alternative Schedules of Compliance
702.164	Recording and Reporting

SUBPART D: ISSUED PERMITS

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

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

SOURCE: Adopted in R81-32, 47 PCB 93, at 6 Ill. Reg. 12479, effective May 17, 1982; amended in R82-19, at 53 PCB 131, 7 Ill. Reg. 14352, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg. 11926, effective July 24, 1985; amended in R85-23 at 10 Ill. Reg. 13274, effective July 29, 1986; amended in R86-1 at 10 Ill. Reg. 14083, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6131, effective March 24, 1987; amended in R87-5 at 11 Ill. Reg. 19376, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2579, effective January 15, 1988; amended in R87-29 at 12 Ill. Reg. 6673, effective March 28, 1988; amended in R87-39 at 12 Ill. Reg. 13083, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18452, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3089, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6273, effective April 16, 1990; amended in R92-10 at 17

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Ill. Reg 5769, effective March 26, 1993; amended in R93-16 at 18 Ill. Reg. 6918, effective April 26, 1994; amended in R94-5 at 18 Ill. Reg. 18284, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9913, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11210, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 532, effective December 16, 1997; amended in R99-15 at 23 Ill. Reg. 9359, effective July 26, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18585, effective December 7, 2000; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 438, effective December 20, 2006.

SUBPART A: GENERAL PROVISIONS

Section 702.101 Purpose, Scope, and Applicability

- a) Coverage.
- 1) ~~The These~~ permit regulations of 35 Ill. Adm. Code 702 through 705 include provisions for the following two permit programs:
 - A) The RCRA (Resource Conservation and Recovery Act) permit program ~~pursuant to under~~ Title V and Title X of the Environmental Protection Act [415 ILCS 5/Title V and Title X].
 - B) The UIC (Underground Injection Control) permit program ~~pursuant to under~~ Title III and Title X of the Environmental Protection Act [415 ILCS 5/Title III and Title X].
 - 2) ~~The These~~ regulations of 35 Ill. Adm. Code 702 through 705 cover basic permitting requirements (35 Ill. Adm. Code 702 ~~through, 703, and~~ 704) and procedures for processing of permit applications (35 Ill. Adm. Code 705) for the RCRA and UIC permit programs.
 - 3) ~~The regulations of~~ 35 Ill. Adm. Code 702 ~~through, 703, 704, and~~ 705 are derived from 40 CFR 124, 144, and 270.
- b) Structure.
- 1) ~~The These~~ regulations of 35 Ill. Adm. Code 702 through 705 comprise the following four Parts:
 - A) ~~This Part 35 Ill. Adm. Code 702~~ contains definitions applicable to 35 Ill. Adm. Code 702 ~~through, 703, 704, and~~ 705. It also contains

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basic permitting requirements for the RCRA and UIC programs.

- B) ~~The regulations of~~ 35 Ill. Adm. Code 703 ~~containe~~contains requirements specific to RCRA permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 703, 35 Ill. Adm. Code 703 will control.
 - C) ~~The regulations of~~ 35 Ill. Adm. Code 704 ~~containe~~contains requirements specific to UIC permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 704, 35 Ill. Adm. Code 704 will control.
 - D) ~~The regulations of~~ 35 Ill. Adm. Code 705 ~~establishe~~establishes procedures for issuance of RCRA and UIC permits by the Agency ~~of RCRA and UIC permits~~.
- 2) ~~35 Ill. Adm. Code 702, 703, and 704 are organized into subparts.~~
 The structure and coverage of 35 Ill. Adm. Code 702 through 704 are these Parts is- indicated in the following table:

	RCRA AND UIC 35 Ill. Adm. <u>Code</u> 702, <u>SUBPART</u> <u>Subpart</u>	RCRA 35 Ill. Adm. <u>Code</u> 703, <u>SUBPART</u> <u>Subpart</u>	UIC 35 Ill. Adm. <u>Code</u> 704 <u>SUBPART</u> <u>Subpart</u>
General	A	A	A
Prohibitions	----	B	B
Authorization by Rule	----	C	C
<u>Permit</u> Application	B	D and E	D
<u>Special Forms of</u> <u>Permits</u>	----	<u>E</u>	----
<u>Permit</u> Conditions	C	F	E
Issued Permits	D	----	H
<u>Permit Modification</u>	----	<u>G</u>	----
<u>Remedial Action Plans</u>	----	<u>H</u>	----
<u>Intergration with</u> <u>MACT Standards</u>	----	<u>I</u>	----
<u>RCRA Standardized</u>	----	<u>J</u>	----

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<u>Permits</u>			
<u>Requirements</u>	----	----	F
<u>Applicable to</u>			
Hazardous Waste			
<u>Injection Wells</u>			
<u>Financial Responsibility</u>	----	----	G
<u>for Class I</u>			
<u>Hazardous Waste</u>			
<u>Injection Wells</u>			
<u>Requirements</u>	----	----	I
<u>Applicable to Class</u>			
<u>V Injection Wells</u>			

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

- 1) Permit application forms~~Application Forms.~~ An applicant~~Applicants~~ for a RCRA or UIC permit or a person~~permits and persons~~ seeking interim status under RCRA must submit its application~~their applications~~ on an Agency permit application form~~forms~~ when such is available.
- 2) Technical regulations~~Regulations.~~ Each of the~~The~~ two permit programs that are covered in these permit regulations has each have separate additional regulations that contain technical requirements for that program~~those programs~~. These separate regulations are used by the Agency to determine the what requirements that must be placed in any permit that it issues~~permits if they are issued~~. These separate regulations are located as follows:

RCRA 35 Ill. Adm. Code 720 through 728, ~~733,726~~ and 739
 UIC 35 Ill. Adm. Code 730 and 738

BOARD NOTE: Derived in significant part from 40 CFR 144.1 ~~(1993)~~ and 270.1 ~~(2005)~~~~(1992)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.102 Electronic Reporting Purpose and Scope (Repealed)

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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BOARD NOTE: Derived from 40 CFR 3 and 145.11(a)(33), as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

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

- a) In accordance with Section 7 of the Environmental Protection Act [415 ILCS 5/7], and as federally required by 40 CFR 2, a person submitting certain information submitted to the Agency or Board pursuant to this Part and 35 Ill. Adm. Code 703 through 705 ~~these regulations~~ may claim that information be claimed as trade secret or non-disclosable information confidential by the submitter. Any such claim of trade secret or non-disclosable information must be asserted at the time of submission in the manner prescribed by 35 Ill. Adm. Code 130101.Subpart D and 120. If no claim is made at the time of submission, the Agency or Board may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with 35 Ill. Adm. Code 130120 and Board and Agency procedures.
- b) Claims of trade secret or non-disclosable information confidentiality for the following information will be denied:
- 1) The name and address of any permit applicant or permittee;
 - 2) The identity of substances being placed or to be placed in landfills or hazardous waste treatment, storage, or disposal facilities; and;
 - 3) For UIC permits, information that deals with the existence, absence, or level of contaminants in drinking water.

BOARD NOTE: Derived from 40 CFR 144.5 ~~(1993)~~ and 270.12 ~~(2005)(1992)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.104 References

The centralized incorporation by reference provisions of 35 Ill. Adm. Code 720.111 include the incorporation of ~~includes all documents sources incorporated~~ by reference that are used to

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establish compliance with the requirements of the Illinois RCRA and UIC programs.

BOARD NOTE: This Section corresponds with 40 CFR 270.6 (2005).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.105 Rulemaking

- a) Identical-in-Substance Regulations.
- 1) Generally applicable federal rules. Twice each year, the Board reserves identical-in-substance rulemaking dockets pursuant to Sections 7.2, 13(c), and 22.4(a) of the Act [415 ILCS 5/7.2, 13(c), and 22.4(a)]. The Board's intent is; generally to include all federal RCRA or UIC amendments that occurred in the appropriate of the prior concluded update periods of January 1 through June 30 or July 1 through December 31 ~~of each calendar year~~. The Board reviews the federal actions that occurred in the period of interest and includes those that require Board action in the reserved docket. The Board itself initiates any necessary proposed amendments to the RCRA or UIC program ~~if any are made necessary~~, so no person needs to file a rulemaking proposal ~~is necessary~~ for the included amendments. The Board routinely excludes from these identical-in-substance proposals those federal amendments that pertain to facilities or activities that exist or occur outside Illinois.
 - 2) The Board does not generally include site-specific federal amendments in an identical-in-substance rulemaking proposal without a request from a member of the regulated community. The owner or operator of a facility subject to a site-specific federal rule that wishes the Board to incorporate that rule into the Illinois regulations should submit a request to the Clerk of the Board for inclusion of that site-specific rule in a future identical-in-substance rulemaking proposal. Any For any other identical-in-substance rulemaking actions, any person wishing such inclusion may petition the Board to adopt appropriate amendments to the Illinois RCRA or UIC program pursuant to Sections 7.2 and 13(c) and 22.4(a) of the Act rules that are identical-in-substance to federal amendments or regulations pertinent to the Illinois RCRA or UIC program or permit issuance. The petition must shall take the form of a proposal for rulemaking pursuant to 35 Ill. Adm. Code 101 and 102. The proposal must shall include a listing of all amendments of interest to the petitioner together with copies of the

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Federal Register notices on which the amendments are to be based.

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

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.106 Adoption of Agency Criteria

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

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- d) For purposes of permit issuance, proof of compliance with Agency-adopted criteria is prima facie proof of compliance with related provisions of the appropriate Act and Board regulations. However, persons other than the Agency may challenge Agency-adopted criteria as applied in the context of permit issuance.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.107 Permit Appeals and Review of Agency Determinations

Unless the contrary intention is indicated, all actions taken by the Agency pursuant to under 35 Ill. Adm. Code 702 through 704, 721 through ~~726, 728, 730, 733, or 738, or 739~~ are to be done as part of an original permit application or a proceeding for modification of an issued permit. Such actions are subject to the procedural requirements of 35 Ill. Adm. Code 705.

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

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.108 Variances and Adjusted Standards

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

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Protection Act (Act) [415 ILCS 5/Title IX] and Subtitle B of 35 Ill. Adm. Code 104; or

- 2) A petition for an adjusted standard pursuant to Section 28.2 of the Act [415 ILCS 5/28.2] and Subtitle D of 35 Ill. Adm. Code 104-106.
- b) The Agency must file a recommendation within prescribed times following the filing of a petition for a variance or adjusted standard. The recommendation must include a draft of the language the Agency proposes to include in the permit if its recommendation is accepted.
- c) If the Board grants a variance or adjusted standard, it will order the Agency to issue or modify the permit pursuant to the variance.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.109 Enforcement Actions

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

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

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.110 Definitions

The following definitions apply to 35 Ill. Adm. Code 702, 703, 704, and 705. Terms not defined in this Section have the meaning given by the appropriate Act and regulations, as such are defined in this Section. ~~When a defined term appears in a definition, the defined term is sometimes placed within quotation marks as an aid to readers.~~ When a definition applies primarily to one or more programs, those programs appear in parentheses after the defined terms.

"Act" or "Environmental Protection Act" means the Environmental Protection Act

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[415 ILCS 5].

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

"Agency" means the Illinois Environmental Protection Agency.

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

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

"Approved program or approved state" means a state or interstate program that has been approved or authorized by USEPA ~~pursuant to~~ ~~under~~ 40 CFR 271 (~~1996~~) (RCRA) or Section 1422 of the SDWA (~~42 USC 300h-1~~) (UIC).

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

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

"Board" (~~RCRA and UIC~~) means the Illinois Pollution Control Board.

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

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

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

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

"Corrective action management unit" or "CAMU" (~~RCRA~~) means an area within a facility that is designated by the Agency pursuant to ~~under~~ Subpart S of 35 Ill. Adm. Code 724 for the purpose of implementing corrective action requirements pursuant to ~~under~~ 35 Ill. Adm. Code 724.201 and RCRA section 3008(h) (~~42 USC 6928(h)~~). A CAMU must only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility. BOARD NOTE: USEPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

"CWA" (~~RCRA and UIC~~) means the Clean Water Act (~~33 USC 1251 et seq.~~)(formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972), P.L. 92-500, as amended by P.L. 95-217 and P.L. 95-576; ~~33-USA 1251 et seq. (1996)~~.

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

"Director" (~~RCRA and UIC~~) means the Director of the Illinois Environmental Protection Agency or the Director's designee.

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

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

"Draft permit" (~~RCRA and UIC~~) means a document prepared pursuant to ~~under~~

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35 Ill. Adm. Code 705.141 indicating the Agency's tentative decision to issue, deny, modify, terminate, or reissue a "permit". A notice of intent to deny a permit, as discussed in 35 Ill. Adm. Code 705.141, is a type of "draft permit". A denial of a request for modification, as discussed in 35 Ill. Adm. Code 705.128, is not a "draft permit". A proposed permit is not a "draft permit".

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

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

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

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

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

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

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

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

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

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

Either of the following has transpired:

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

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

"Existing injection well" (UIC) means an injection well that is not other than a new injection well.

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

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

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

"Federal, State, and local approvals or permits necessary to begin physical construction" (RCRA) means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances. ~~(See 35 Ill. Adm. Code 700.102.)~~

"Final authorization" (RCRA) means January 31, 1986, the date of approval by USEPA of the Illinois Hazardous Waste Management Program that has met the requirements of Section 3006(b) of RCRA (42 USC 6926(b)) and the applicable requirements of subpart A of 40 CFR 271, Subpart A (1996). ~~USEPA granted initial final authorization on January 31, 1986.~~

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

"Formation" (UIC) means a body of rock characterized by a degree of lithologic

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homogeneity that is prevailingly, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

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

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

"Generator" (RCRA) means any person, by site location, whose act or process produces "hazardous waste" ~~identified or listed in 35 Ill. Adm. Code 721.~~

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

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

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

"HWM facility" (RCRA) means Hazardous waste management facility.

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

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

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

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

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"Interim authorization" (RCRA) means May 17, 1982, the date of approval by USEPA of the Illinois Hazardous Waste Management program that has met the requirements of ~~section~~Section 3006(g)(2) of RCRA (42 USC 6926(g)(2)) and applicable requirements of 40 CFR 271 ~~(1996)~~. ~~This happened on May 17, 1982.~~

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

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

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

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

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

"New injection well" (UIC) means a well that began injection after March 3, 1984, the date of USEPA approval of the UIC program for the State of Illinois. BOARD NOTE: See 40 CFR 147.700 (1998) and 49 Fed. Reg. 3991 (Feb. 1, 1984).

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

"On-site" (RCRA) means on the same or geographically contiguous property that may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the rights-of-way. Non-contiguous properties owned by

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the same person, but connected by a right-of-way that the person controls and to which the public does not have access, is also considered on-site property.

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

"Permit" means an authorization, license, or equivalent control document issued to implement the requirements of this Part and 35 Ill. Adm. Code 703, 704, and 705. "Permit" includes RCRA permit by rule (35 Ill. Adm. Code 703.141), RCRA standardized permit (35 Ill. Adm. Code 703.238), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC "Emergency Permit" (35 Ill. Adm. Code 703.221 and 704.163). "Permit" does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

~~"Permit" includes RCRA permit by rule (35 Ill. Adm. Code 703.141), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC "Emergency Permit" (35 Ill. Adm. Code 703.221 and 704.163). "Permit" does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.~~

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

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

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

"Point of injection" means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box – the last accessible sampling point before the waste fluids drain

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into the underlying soils. For a dry well, it is likely to be the well bore itself.

"POTW" means publicly owned treatment works.

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

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

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

"RCRA" ([RCRA](#)) means the ~~Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580, as amended by P.L. 95-609, P.L. 96-510, 42 USC 6901 et seq. (1996))~~. For the purposes of regulation ~~pursuant to under~~ 35 Ill. Adm. Code 700 through 705, 720 through 728, 733, [738](#), and 739, "RCRA" refers only to RCRA Subtitle C. This does not include the RCRA Subtitle D (municipal solid waste landfill) regulations, found in 35 Ill. Adm. Code 810 through 815, and the RCRA Subtitle I (underground storage tank) regulations found in 35 Ill. Adm. Code 731 and 732.

"RCRA permit" ([RCRA](#)) means a permit required ~~pursuant to under~~ Section 21(f) of the ~~Environmental Protection Act~~ [\[415 ILCS 5/21\(f\)\]](#).

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

"Regional Administrator" ([RCRA and UIC](#)) means the Regional Administrator ~~off~~ for the USEPA Region in which the facility is located or the Regional Administrator's designee.

[BOARD NOTE: Illinois is in USEPA Region 5.](#)

"Remedial ~~action plan~~ [Action Plan](#)" or "RAP" ([RCRA](#)) means a special form of RCRA permit that a facility owner or operator may obtain pursuant to Subpart H

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of 35 Ill. Adm. Code 703, instead of a RCRA permit issued ~~pursuant to under~~ this Part and 35 Ill. Adm. Code 703, to authorize the treatment, storage, or disposal of hazardous remediation waste (as defined in 35 Ill. Adm. Code 720.110) at a remediation waste management site.

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

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

"SDWA" (UIC) means the Safe Drinking Water Act (~~P.L. 93-523, as amended, 42~~ USC 300f et seq. ~~(1996)~~).

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

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

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

"State" (RCRA and UIC) means the State of Illinois.

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"State Director" ([RCRA and UIC](#)) means the Director of the Illinois Environmental Protection Agency.

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

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

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

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

"Total dissolved solids" (UIC) means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR [136.3 \(Identification of Test Procedures; the method for filterable residue\)](#)~~136~~, incorporated by reference in 35 Ill. Adm. Code 720.111.

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

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

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

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

"Treatment" (RCRA) means any method, technique, process, including neutralization, designed to change the physical, chemical, or biological character

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or composition of any "hazardous waste" so as to neutralize such wastes, or so as to recover energy or material resources from the waste, or so as to render such wastes non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

"UIC" (UIC) means the Underground Injection Control program.

"Underground injection" (UIC) means a well injection.

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

It supplies any public water system; or

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

It currently supplies drinking water for human consumption; or

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

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

"Wastewater treatment unit" (RCRA) means a device of which the following is true~~that~~:

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

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

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

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

~~Well injection means the subsurface emplacement of fluids through a well.~~

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

BOARD NOTE: Derived from 40 CFR [124.2](#), 144.3 and 270.2 (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005)(1999), as amended at 64 Fed. Reg. 68565 (Dec. 7, 1999).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

SUBPART B: PERMIT APPLICATIONS

Section 702.120 Permit Application

- a) Applying for a UIC permit. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Agency as described in this Section and in ~~35 Ill. Adm. Code 703.180 (RCRA) and~~ 35 Ill. Adm. Code 704.161 (UIC). ~~Any person who is~~ Persons currently authorized with ~~interim status under RCRA (35 Ill. Adm. Code 703. Subpart C) or~~ UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704. Subpart C) ~~must~~ shall apply for ~~a permit~~ permits when required to do so by the Agency. ~~Person covered by RCRA permits by rule (35 Ill. Adm. Code 703.141) need not apply. Procedures~~ The procedure for application ~~applications~~, issuance, and administration of an emergency permit is ~~permits are~~ found exclusively in ~~35 Ill. Adm. Code 703.221 (RCRA) and~~ 35 Ill. Adm. Code 704.163 (UIC). ~~Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in 35 Ill. Adm. Code 703.231 (RCRA).~~
- b) Applying for a RCRA permit. The following information outlines how to obtain a permit and where to find requirements for specific permits:
- 1) If the facility is covered by RCRA permits by rule (35 Ill. Adm. Code 703.141), the owner or operator need not apply for a permit.

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- 2) If the facility owner or operator currently has interim status pursuant to RCRA (Subpart C of 35 Ill. Adm. Code 703), it must apply for a permit when required by the Agency.
- 3) If the facility owner or operator is required to have a permit (including new applicants and permittees with expiring permits), it must complete, sign, and submit an application to the Agency, as described in this Section; in Sections 702.120 through 702.124; and in 35 Ill. Adm. Code 703.125, 703.126, 703.150 through 703.157, 703.186, and 703.188.
- 4) If the facility owner or operator is seeking an emergency permit, the procedures for application, issuance, and administration are found exclusively in 35 Ill. Adm. Code 703.220.
- 5) If the facility owner or operator is seeking a research, development, and demonstration permit, the procedures for application, issuance, and administration are found exclusively in 35 Ill. Adm. Code 703.231.
- 6) If the facility owner or operator is seeking a RCRA standardized permit, the procedures for application and issuance are found in Subpart G of 35 Ill. Adm. Code 705 and Subpart J of 35 Ill. Adm. Code 703.

BOARD NOTE: Subsection (a) of this Section is derived ~~Derived~~ from 40 CFR 144.31(a) (2005)(1993) and subsection (b) of this Section is derived from 40 CFR 270.10(a) (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005)(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.122 Completeness

The Agency ~~must~~ shall not issue a permit under a program (RCRA or UIC) before receiving a complete application for a permit under that program, except for emergency permits. An application for a permit under a program is complete when the Agency receives an application form and any supplemental information that is completed to its satisfaction. (35 Ill. Adm. Code 705.122). An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in 35 Ill. Adm. Code 703.186 (RCRA).

BOARD NOTE: Derived from 40 CFR 144.31(d) ~~(1993)~~ and 270.10(c) (2005)(1992).

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(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.123 Information Requirements

~~An applicant~~**All applicants** for ~~a~~ RCRA or UIC ~~permit must permits shall~~ provide the following information to the Agency, using the application form provided by the Agency (additional information required of applicants is set forth in ~~Subpart D of~~ 35 Ill. Adm. Code 703~~.Subpart D~~ (RCRA) and 35 Ill. Adm. Code 704.161 (UIC)).

- a) The activities conducted by the applicant that require it to obtain ~~a permit~~**permits** under RCRA or UIC.
- b) ~~The name, Name,~~ mailing address, and location of the facility for which the application is submitted.
- c) Up to four SIC codes that best reflect the principal products or services provided by the facility.
- d) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.
- e) The name, address, and phone number of the owner of the facility.
- f) A listing of all permits or construction approvals received or applied for under any of the following programs:
 - 1) ~~The hazardous waste management Hazardous Waste Management~~ program under RCRA, this Part, and 35 Ill. Adm. Code 703~~;~~
 - 2) ~~The~~ UIC program under SDWA, this Part, and 35 Ill. Adm. Code 704~~;~~
 - 3) ~~The National Pollutant Discharge Elimination System (NPDES)~~ program under ~~the federal~~ CWA (~~33 USC 1251 et seq.~~) and 35 Ill. Adm. Code 309~~;~~
 - 4) ~~The~~ Prevention of Significant Deterioration (PSD) program under the ~~federal~~ Clean Air Act (~~42 USC 7401 et seq.~~);~~;~~
 - 5) ~~The nonattainment Nonattainment~~ program under the ~~federal~~ Clean Air Act~~;~~

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- 6) ~~The~~ National Emission Standards for Hazardous Pollutants (NESHAPs)~~(NESHAPS)~~ preconstruction approval under the federal Clean Air Act~~;~~:-
 - 7) ~~Any ocean~~ Ocean-dumping permits under the federal Marine Protection Research and Sanctuaries Act (33 UCS 1401 et seq.)~~;~~:-
 - 8) ~~Any dredge~~ Dredge-or fill permits under Section 404 of CWA (33 USC 1344); and~~;~~:-
 - 9) ~~Any other~~ Other-relevant environmental permits, including any State-issued~~Illinois~~ permits.
- g) A topographic map (or other map if a topographic map is unavailable) extending 1609 meters (one mile) beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or which are otherwise known to the applicant within 402 meters (one-quarter~~one-fourth~~ mile) of the facility property boundary.
- h) A brief description of the nature of the business.

BOARD NOTE: Derived from 40 CFR 144.31(e), ~~(1993) and~~ 270.10(d), and 270.13 ~~(2005)(1992)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.124 Recordkeeping

An applicant~~Applicants must~~shall keep records of all data used to complete permit applications and any supplemental information submitted pursuant to ~~under~~ 35 Ill. Adm. Code 702.123, Subpart D of 35 Ill. Adm. Code 703.~~Subpart D~~ (RCRA); and 35 Ill. Adm. Code 704.161 (UIC) for a period of at least three~~3~~ years from the date the application is signed.

BOARD NOTE: Derived from 40 CFR 144.31(f) and 270.10(i) ~~(2005)(1993)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

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Section 702.125 Continuation of Expiring Permits

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

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

BOARD NOTE: Derived from 40 CFR 144.37 ~~(1993)~~ and 270.51 ~~(2005)~~, as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005)~~(1992).~~

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.126 Signatories to Permit Applications and Reports

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

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

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

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

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Agency ~~must~~shall be signed by a person described in subsection (a) of this Section, or by a duly authorized representative of that person. A person is a duly authorized representative only if each of the following conditions are fulfilled:

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

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons that manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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- 2) Alternative owner certification. For remedial action plans (RAPs) ~~pursuant to under~~ Subpart H of this Part, if the operator certifies according to subsection (d)(1) of this Section, then the owner may choose to make the following certification instead of the certification in subsection (d)(1) of this Section:

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

BOARD NOTE: Derived from 40 CFR 144.32 ~~(1998)~~ and 270.11 ~~(2005)(1998)~~, as amended at 63 Fed. Reg. 65941 (November 30, 1998).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

SUBPART C: PERMIT CONDITIONS

Section 702.140 Conditions Applicable to all Permits

The conditions of this Subpart **C** apply to all RCRA and UIC permits. For additional conditions applicable to all permits for each of the programs individually, see **Subpart F of 35 Ill. Adm. Code 703**.~~Subpart F~~ (RCRA) and **Subpart E of 704**.~~Subpart E~~ (UIC). All conditions applicable to all permits, and all additional conditions applicable to all permits for individual programs ~~must; shall~~ be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

BOARD NOTE: Derived from 40 CFR 144.51 preamble ~~(1993)~~ and 270.30 preamble ~~(2005)(1992)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.141 Duty to Comply

The permittee must comply with all conditions of ~~its~~**this** permit. Any permit noncompliance constitutes a violation of the Illinois Environmental Protection Act and is grounds ~~for one or~~

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~~more of the following actions:~~ for an enforcement action;~~;~~ for permit revocation or modification;~~;~~ or for denial of a permit renewal application.

BOARD NOTE: Sections 703.242 (RCRA) and 704.181(a) (UIC) contain additional information on operation under an emergency permit. Derived from 40 CFR 144.51(a) ~~(1993)~~ and 270.30(a) ~~(2005)(1992).~~

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.142 Duty to Reapply

If ~~the~~ permittee wishes to continue an activity regulated by ~~its~~this permit after the expiration date of ~~the~~this permit, the permittee must apply for and obtain a new permit.

BOARD NOTE: Derived from 40 CFR 144.51(b) ~~(1993)~~ and 270.30(b) ~~(2005)(1992)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.143 Need to Halt or Reduce Activity Not a Defense

It ~~will~~shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of ~~its~~this permit.

BOARD NOTE: Derived from 40 CFR 144.51 (c) ~~(1993)~~ and 270.30(c) ~~(2005)(1992)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.144 Duty to Mitigate

- a) For RCRA permits, in the event of noncompliance with ~~its~~the permit, the permittee ~~must~~shall take all reasonable steps to minimize releases to the environment, and ~~must~~shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.
- b) For UIC permits, the permittee ~~must~~shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from non-compliance with ~~its~~the permit.

BOARD NOTE: Derived from 40 CFR 144.51(d) ~~(1993)~~ and 270.30(d) ~~(2005)(1992)~~.

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(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.145 Proper Operation and Maintenance

The permittee ~~must~~shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of ~~its~~this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. Proper operation and maintenance ~~This provision~~ requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

BOARD NOTE: Derived from 40 CFR 144.51(e) ~~(1993)~~ and 270.30(e) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.146 Permit Actions

~~A~~This permit may be modified or revoked for cause. The filing of a request by the permittee for a permit modification or reissuance~~revocation~~, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

BOARD NOTE: Derived from 40 CFR 144.51(f) ~~(1993)~~ and 270.30(f) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.147 Property Rights

~~A~~This permit conveys no ~~does not convey any~~ property rights of any sort, nor does a permit convey ~~or~~ any exclusive privilege.

BOARD NOTE: Derived from 40 CFR 144.51(g) ~~(1993)~~ and 270.30(g) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.148 Duty to Provide Information

~~A~~The permittee ~~must~~shall furnish to the Agency, within a reasonable time, any relevant

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information that the Agency may request to determine whether cause exists for modifying ~~or, revoking and~~ reissuing, ~~or terminating~~ this permit or to determine compliance with this permit. The permittee ~~must~~shall also furnish to the Agency, upon request, copies of records required to be kept by this permit.

BOARD NOTE: Derived from 40 CFR 144.51(h) ~~(1993)~~ and 270.30(h) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.149 Inspection and Entry

~~The~~ permittee ~~must~~shall allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to do any of the following:

- a) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the appropriate Act, any substances or parameters at any location.

BOARD NOTE: Derived from 40 CFR 144.51(i) ~~(1993)~~ and 270.30(i) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.150 Monitoring and Records

- a) Samples and measurements taken for the purpose of monitoring ~~must~~shall be representative of the monitored activity.
- b) The permittee ~~must~~shall retain records of all monitoring information, including all

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calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of all reports required by ~~its~~this permit; and records of all data used to complete the application for ~~its~~this permit, for a period of at least ~~three~~3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Agency at any time.

- c) Records of monitoring information ~~must~~shall include all of the following information:
- 1) The date, exact place, and time of sampling or measurements;
 - 2) The ~~individuals~~individual(s) who performed the sampling or measurements;
 - 3) The ~~dates~~date(s) analyses were performed;
 - 4) The ~~individuals~~individual(s) who performed the analyses;
 - 5) The analytical techniques or methods used; and
 - 6) The results of such analyses.

BOARD NOTE: Derived from 40 CFR 144.51(j) ~~(1993)~~ and 270.30(j) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.151 Signature Requirements

All ~~applications~~application, reports, or information submitted to the Agency ~~must~~shall be signed and certified in accordance with ~~the requirements of~~ Section 702.126.

BOARD NOTE: Derived from 40 CFR 144.51(k) ~~(1993)~~ and 270.30(k) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.152 Reporting Requirements

- a) Planned changes. The permittee ~~must~~shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.

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- b) Anticipated noncompliance. The permittee ~~must~~ give advance notice to the Agency of any planned changes in the permitted facility or activity ~~that~~ which may result in noncompliance with permit requirements. For RCRA, see also 35 Ill. Adm. Code 703.247.
- c) Transfers. This permit is not transferable to any person, except after notice to the Agency. The Agency may require modification of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See Sections 702.182 and 702.183, in some cases modification is mandatory.)
- d) Monitoring reports. Monitoring results ~~must~~ be reported at the intervals specified in the permit.
- e) Compliance schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit ~~must~~ be submitted no later than specified in Section 702.162.
- f) Twenty-four hour reporting as required in 35 Ill. Adm. Code 703.245 or 704.181(d).
- g) Other noncompliance. The permittee ~~must~~ report all instances of noncompliance not reported ~~pursuant to~~ under subsections (d), (e), and (f) of this Section at the time monitoring reports are submitted. The reports ~~must~~ contain the information referenced in subsection (f) of this Section.
- h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Agency, it ~~must~~ promptly submit such facts or information.

(BOARD NOTE: Derived from 40 CFR 144.51(l) and 270.30(l) ~~(2005)(1988).~~)

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.160 Establishing Permit Conditions

- a) In addition to conditions required in permits for both programs (Sections 702.140

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through 702.152), the Agency ~~must~~shall establish conditions in RCRA and UIC permits, as required on a case-by-case basis, ~~pursuant to in RCRA and UIC permits under~~ Section 702.150 (monitoring and records), 702.161 (duration of permits), Section 702.162 (schedules of compliance), Section 702.163 (alternate schedules of compliance), and Section 702.164 (Recording and Reporting). For UIC only, permits for owners and operators of hazardous waste injection wells must include conditions meeting the requirements of 35 Ill. Adm. Code 704.201 through 704.203 (requirements for wells injecting hazardous waste), 704.189 (financial responsibility), and 704.191 (additional conditions), and Subpart G of 35 Ill. Adm. Code 730 (criteria and standards applicable to Class I hazardous waste injection wells).~~Subpart G~~. Permits for other wells must contain the requirements set forth in Subpart E of 35 Ill. Adm. Code 704 (permit conditions).~~Subpart E~~ when applicable.

- b) Additional conditions.
- 1) In addition to conditions required in all permits for a particular program (Subpart F of 35 Ill. Adm. Code 703.~~Subpart F~~ for RCRA and Subpart C of 35 Ill. Adm. Code 704.~~Subpart C~~ for UIC), the Agency ~~must~~shall establish conditions in permits for the individual programs, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the appropriate Act and regulations.
 - 2) An applicable requirement is a statutory or regulatory requirement that takes effect prior to final administrative disposition of a permit. The provisions of 35 Ill. Adm. Code 705.184 (reopening of comment period) provide~~provides~~ a means for reopening permit proceedings at the discretion of the Agency where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement that takes effect prior to the modification of a permit, to the extent allowed in 35 Ill. Adm. Code 705.201.
 - 3) A new~~New~~ or reissued permit~~permits~~, and a modified permit to the extent allowed pursuant to~~under~~ 35 Ill. Adm. Code 705.201 ~~modified permits~~, must~~shall~~ incorporate each of the applicable requirements referenced in Subpart F of 35 Ill. Adm. Code 703.241 et seq. (RCRA) and Subpart E of 35 Ill. Adm. Code 704.182 through 704.191 (UIC).
- c) Incorporation. All permit conditions ~~must~~shall be incorporated either expressly or

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by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

BOARD NOTE: Derived from 40 CFR 144.52 ~~(1993)~~ and 270.32 ~~(2005)~~~~(1992)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.161 Duration of Permits

- a) Permit duration.
 - 1) RCRA. A RCRA permit must ~~permits shall~~ be effective for a fixed term, to be determined by the Agency on a case-by-case basis, but not to exceed ten years.
 - 2) UIC. A UIC permit ~~permits~~ for a Class I or ~~and~~ Class V injection well must ~~wells shall~~ be effective for a fixed term, to be determined by the Agency on a case-by-case basis, but not to exceed ten years. A UIC permit ~~permits~~ for a Class III injection well must ~~wells shall~~ be issued for a period not to exceed five years; provided, however, that the Agency must ~~shall~~, without requiring a new application, renew such permits for a period not to exceed five years per renewal, unless the Agency determines that the permit should be modified, reissued ~~revoked~~, or a minor modification made, as provided in Sections 702.183 through 702.187, in which case the permittee must ~~shall be required to~~ file a new permit application.
- b) Except as provided in Section 702.125, the term of a permit must ~~shall~~ not be extended by modification beyond the maximum duration specified in this Section.
- c) The Agency may issue any permit for a duration that is less than the full allowable term pursuant to ~~under~~ this Section.
- d) The Agency must ~~shall~~ review each RCRA permit for a land disposal facility no later than five years after the date of permit issuance or reissuance, and the Agency must ~~shall~~ modify the permit as necessary, as provided in Section 702.183 and 702.184.

BOARD NOTE: Derived from 40 CFR 144.36 ~~(1993)~~ and 270.50 ~~(2005)~~~~(1992)~~.

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

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Section 702.162 Schedules of Compliance

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

- a) Time for compliance. Any schedules of compliance ~~pursuant to under~~ this Section ~~must section shall~~ require compliance as soon as possible. For UIC, in addition, schedules of compliance ~~must shall~~ require compliance not later than ~~three~~3 years after the effective date of the permit.
- b) Interim dates. If a permit establishes a schedule of compliance that exceeds ~~one~~1 year from the date of permit issuance, the schedule ~~must shall~~ set forth interim requirements and the dates for their achievement.
 - 1) The time between interim dates ~~must shall~~ not exceed ~~one~~1 year.
 - 2) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than ~~one~~1 year and is not readily divisible into stages for completion, the permit ~~must shall~~ specify interim dates for the submission of reports of progress toward compliance of the interim requirements and indicate a projected completion date.
- c) Reporting. A RCRA permit ~~must shall~~ be written to require that no later than 14 days following such interim date and the final date of compliance, the permittee ~~must shall~~ notify the Agency in writing of its compliance or noncompliance with the interim or final requirements. A UIC permit ~~must shall~~ be written to require that if subsection (a) ~~of this Section~~above is applicable, progress reports be submitted no later than 30 days following each interim date and the final date of compliance.
- d) The Agency may not permit a schedule of compliance involving violation of regulations adopted by the Board unless the permittee has been granted a variance. To avoid delay, an applicant seeking a schedule of compliance should file a variance petition pursuant to Subpart B of 35 Ill. Adm. Code 104 at the same time the permit application is filed.

BOARD NOTE: Derived from 40 CFR 144.53(a) ~~(1993)~~ and 270.33(a) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

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Section 702.163 Alternative Schedules of Compliance

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

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

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a date that will ensure timely compliance with applicable requirements.

- 4) Each permit containing two alternative schedules ~~must~~shall include a requirement that, after the permittee has made a final decision pursuant to~~under~~ subsection (c)(1) of this Section, above it ~~must~~shall follow the schedule leading to compliance, if the decision is to continue conducting regulated activities, ~~or and~~ follow the schedule leading to termination, if the decision is to cease conducting regulated activities.
- d) The applicant's or permittee's decision to cease conducting regulated activities ~~must~~shall be evidenced by a firm public commitment satisfactory to the Agency, such as a written resolution of the board of directors of a corporation.

BOARD NOTE: Derived from 40 CFR 144.53(b) ~~(1993)~~ and 270.33(b) ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.164 Recording and Reporting

A permit must ~~All permits shall~~ specify the following:

- a) Requirements ~~as to~~concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods, when appropriate);
- b) Required monitoring, including type, intervals, and frequency sufficient to yield data that are representative of the monitored activity including, when appropriate, continuous monitoring; and
- c) Applicable reporting requirements based ~~on~~upon the impact of the regulated activity and as specified in 35 Ill. Adm. Code 724 (RCRA) and 35 Ill. Adm. Code 730 (UIC). Reporting ~~must~~shall be no less frequent than specified in the above regulations.

BOARD NOTE: Derived from 40 CFR 144.54 ~~(1993)~~ and 270.31 ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

SUBPART D: ISSUED PERMITS

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Section 702.181 Effect of a Permit

- a) The existence of a RCRA or UIC permit does not constitute a defense to a violation of the Environmental Protection Act or this Subtitle G, except for prohibitions against development, modification, or operation without a permit. However, a permit may be modified, or reissued, ~~or revoked~~ during its term for cause, as set forth in Subpart G of 35 Ill. Adm. Code 703.270 through 703.273 (RCRA) or Subpart H of 35 Ill. Adm. Code 704.261 through 704.263 (UIC) and Section 702.186.

BOARD NOTE: 40 CFR 270.4(a) differs from this subsection (a) in two significant aspects: (1) it states that compliance with the permit is compliance with federal law, and (2) it enumerates exceptions when compliance with the permit can violate federal law. The exceptions are intervening (1) statutory requirements; (2) 40 CFR 268 land disposal restrictions; (3) 40 CFR 264 leak detection requirements; and (4) subparts AA, BB, and CC of 40 CFR 266, subparts AA, BB, and CC air emissions limitations. By not codifying the federal exceptions, since they are not necessary in the Illinois program to accomplish the intended purpose, the Board does not intend to imply that compliance with a RCRA permit obviates immediate compliance with any of the events included in the federal exceptions.

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

BOARD NOTE: Derived from 40 CFR 144.35 ~~(2005)(1994) and 40 CFR 270.4 (1994), as amended at 49 Fed. Reg. 62952 (Dec. 6, 1994).~~

(Source: Amended at 31 Ill. Reg. 438, effective December 20, 2006)

Section 702.186 Revocation

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

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

BOARD NOTE: Derived from 40 CFR 270.43 and 144.40 [\(2005\)\(1988\)](#).

(Source: Amended at 31Ill. Reg. 438, effective December 20, 2006)

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
703.100	Amend
703.102	New Section
703.123	Amend
703.125	Amend
703.184	Amend
703.188	Amend
703.189	New Section
703.191	Amend
703.192	Amend
703.205	Amend
703.208	Amend
703.210	Amend
703.211	Amend
703.220	Amend
703.221	Amend
703.231	Amend
703.232	Amend
703.238	New Section
703.241	Amend
703.246	Amend
703.260	Amend
703.270	Amend
703.271	Amend
703.272	Amend
703.280	Amend
703.301	Amend
703.302	Amend
703.303	Amend
703.304	Amend
703.320	Amend
703.350	New Section
703.351	New Section
703.352	New Section
703.353	New Section
703.APPENDIX A	Amend

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- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The amendments include references to incorporations by reference that are amended in this proceeding. Many of the amendments relating to Part 703 incorporate the 10/12/06 federal amendments to the Hazardous Waste Combustor Rule. Others relating to Part 703, for the purposes of the Standardized Permit Rule, add incorporations of documents that are already incorporated by reference in other segments of the rules.
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 6724; April 21, 2006
- 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 11/16/06, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated 4/6/06, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not

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apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 703 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 703 implement segments of the 8/5/05, 9/8/05, 10/12/05, and 10/13/05 federal amendments. The amendments incorporate permit-related elements of the Mercury-Containing Device Rule, the Standardized Permit Rule, and the amendments to the Hazardous Waste Combustor Rule into the RCRA Subtitle C permit regulations. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's opinion and order of 11/16/06 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.

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Persons interested in the details of those corrections and amendments should refer to the 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's opinion and order of 11/16/06, 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:

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SUBTITLE G: WASTE DISPOSAL
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SUBCHAPTER b: PERMITSPART 703
RCRA PERMIT PROGRAM

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703.101	Purpose
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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 R82-19 at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16

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at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12683, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5966, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2845, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 487, effective December 20, 2006.

SUBPART A: GENERAL PROVISIONS

Section 703.100 Scope and Relation to Other Parts

- a) This Part requires RCRA permits, pursuant to Section 21(f) of the Environmental Protection Act [415 ILCS 5/21(f)], for hazardous waste management (HWM) facilities, which may include one or more treatment, storage, or disposal (TSD) units. This Part also contains specific rules on applications for and issuance of RCRA permits;
- b) The provisions of 35 Ill. Adm. Code 702 ~~containeontains~~ general provisions on applications for and issuance of RCRA permits. The provisions of 35 Ill. Adm. Code 705 ~~containeontains~~ procedures to be followed by the Illinois Environmental Protection Agency (Agency) in issuing RCRA permits;
- c) The definitions of 35 Ill. Adm. Code 702.110 apply to this Part. 35 Ill. Adm. Code 720 contains definitions applicable to the RCRA operating standards of 35 Ill. Adm. Code 720 through 728, 733, 738, and 739. 35 Ill. Adm. Code 721 defines "solid waste" and "hazardous waste";

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- d) The standards of 35 Ill. Adm. Code 724 and 725 apply to HWM facilities required to have RCRA permits. The provisions of 35 Ill. Adm. Code 722 and 723 contain standards applicable to generators and transporters of hazardous waste.
- e) The standards of 35 Ill. Adm. Code 727 set forth the specific procedural requirements for a RCRA standardized permit, which alter the applicability of this Part and 35 Ill. Adm. Code 702 and 705 in several regards as specified in the affected provisions. A TSD that is otherwise subject to permitting under RCRA and which meets the criteria in subsection (e)(1) or (e)(2) of this Section, may be eligible for a RCRA standardized permit pursuant to Subpart J of this Part.
- 1) The facility generates hazardous waste and then non-thermally treats or stores hazardous waste on-site in tanks, containers, or containment buildings; or
 - 2) The facility receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and the facility stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings.

BOARD NOTE: Subsection (e) of this Section is derived from the final sentence of 40 CFR 124.1(b), the second sentence of 40 CFR 270.1(b), and 40 CFR 270.1(b)(1) and (b)(2) (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.102 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 487, effective December 20, 2006)

SUBPART B: PROHIBITIONS

Section 703.123 Specific Exclusions from Permit Program

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

- a) ~~A generator~~Generators that ~~accumulates~~accumulate hazardous waste on-site for less than the time periods provided in 35 Ill. Adm. Code 722.134;
- b) ~~A farmer~~Farmers that ~~disposes~~dispose of hazardous waste pesticides from ~~the farmer's~~their own use, as provided in 35 Ill. Adm. Code 722.170;
- c) ~~A person~~Persons that ~~owns~~own or ~~operates a facility~~operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulations ~~pursuant to~~under this Part by 35 Ill. Adm. Code 721.104 or 721.105 (small generator exemption);
- d) An owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- e) An owner or operator of an elementary neutralization unit or wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110;
- f) A transporter that stores manifested shipments of hazardous waste in containers that meet the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
- g) A person ~~that~~who adds absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or a person ~~that~~who adds waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 35 Ill. Adm. Code 724.117(b), 724.271, and 724.272 are complied with; and
- h) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that manages the wastes listed in subsections (h)(1) through (h)(5) of this Section. Such a handler or transporter is subject to regulation ~~pursuant to~~under 35 Ill. Adm. Code 733.
 - 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 - 3) ~~Mercury-containing equipment, Thermostats,~~ as described in 35 Ill. Adm.

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Code 733.104; and

- 4) Lamps, as described in 35 Ill. Adm. Code 733.105; and
- 5) ~~Mercurey-containing equipment, as described in 35 Ill. Adm. Code 733.106.~~

~~BOARD NOTE: Subsection (h)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005)(2002).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.125 Reapplying for a Permit~~Reapplications~~

If a facility owner or operator has an effective permit and it wants to reapply for a new one, it has the following two options:

- a) The owner or operator may submit a new application at least 180 days before the expiration date of the effective permit, unless the Agency allows a later date; or
- b) If the owner or operator intends to be covered by a RCRA standardized permit, it may submit a Notice of Intent, as described in 35 Ill. Adm. Code 702.125(e)(1) at least 180 days before the expiration date of the effective permit, unless the Agency allows a later date. The Agency may not allow the owner or operator to submit an application or Notice of Intent later than the expiration date of the existing permit, except as allowed by 35 Ill. Adm. Code 702.125(e)(2).

~~Any HWM facility with an effective permit must submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Agency. (The Agency must not grant permission for applications to be submitted later than the expiration date of the existing permit.)~~

BOARD NOTE: Derived from 40 CFR 270.10(h) (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005)-(2002).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

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SUBPART D: APPLICATIONS

Section 703.184 Facility Location Information

- a) In order to show compliance with the facility location requirements of Section 21(1) of the Environmental Protection Act [415 ILCS 5/21(1)], the owner or operator must include the following information, or a demonstration that Section 21(1) does not apply:

- 1) ~~The location~~Location of any active or inactive shaft or tunneled mine below the facility;
- 2) ~~The location~~Location of any active faults in the earth's crust within two miles of the facility boundary;
- 3) ~~The location~~Location of existing private wells or existing sources of a public water supply within 1000 feet of any disposal unit boundary;
- 4) ~~The location~~Location of the corporate boundaries of any municipalities within one and one-half miles of the facility boundary;

BOARD NOTE: Subsections (a)(1), (a)(2), (a)(3), and (a)(4) of this Section request information necessary to allow the Agency to determine the applicability of Section 21(1) of the Environmental Protection Act [415 ILCS 5/21(1)] requirements. These provisions are not intended to modify the requirements of the Act. For example, the operator is required to give the location of wells on its own property, even though the Agency might find that these do not prohibit the site location.

- 5) Documentation showing approval of municipalities if such approval is required by Section 21(1) of the Environmental Protection Act [415 ILCS 5/21(1)];
- b) This subsection (b) corresponds with 40 CFR 270.14(b)(11)(ii), which pertains exclusively to facilities located in certain federally listed seismic zones, none of which is in Illinois. This statement maintains structural consistency with the corresponding federal rules;
- c) A facility ~~An~~ owner or operator ~~of all facilities~~ must provide an identification of

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whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant flood map produced by the Federal Emergency Management Agency, National Flood Insurance Program (NFIP), if used, or the calculations and maps used where a NFIP map is not available. Information must also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) that must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood;

BOARD NOTE: NFIP maps are available as follows: Flood Map Distribution Center, National Flood Insurance Program, Federal Emergency Management Agency, 6930 (A-F) San Tomas Road, Baltimore, MD 21227-6227. 800-~~638~~-6620; and, Illinois Floodplain Information Depository, State Water Survey, 514 WSRC, University of Illinois, Urbana, IL 61801. 217-~~333~~-0447. Where NFIP maps are available, they will normally be determinative of whether a facility is located within or outside of the 100-year flood plain. However, where the NFIP map excludes an area (usually areas of the flood plain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where NFIP maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what is the 100-year flood elevation.

- d) An owner or operator of ~~a facility~~**facilities** located in the 100-year floodplain must provide the following information:
- 1) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood;
 - 2) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;
 - 3) If applicable, and in lieu of subsections (d)(1) and (d)(2) of this Section, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including the following:
 - A) Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility;

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- B) A description of the locations to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with 35 Ill. Adm. Code 702, 703, ~~and 724 through 727, and 725~~;
- C) The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and
- D) The potential for accidental discharges of the waste during movement;
- e) An owner or operator of ~~an~~ existing ~~facility~~~~facilities~~ not in compliance with 35 Ill. Adm. Code 724.118(b) must provide a plan showing how the facility will be brought into compliance and a schedule for compliance. Such an owner or operator must file a concurrent variance petition with the Board; and
- f) An owner or operator of a new regional pollution control facility, as defined in Section 3 of the Environmental Protection Act [415 ILCS 5/3], must provide documentation showing site location suitability from the county board or other governing body as provided by Section 39(c) and 39.2 of that Act [415 ILCS 5/39(c) and 39.2].

BOARD NOTE: Subsections ~~(c)(b)~~ through (e) of this Section are derived from 40 CFR 270.14(b)(11)(iii) through (b)(11)(v) ~~(2005)(2002)~~. The Board has not codified an equivalent to 40 CFR 270.14(b)(11)(i) and (b)(11)(ii), relating to certain seismic zones not located within Illinois.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.188 Other Information

The Agency may require a permittee or applicant to submit information in order to establish permit conditions ~~pursuant to~~~~under~~ Section 703.241(a)(2) (conditions necessary to adequately protect human health and the environment) and 35 Ill. Adm. Code 702.161 (duration of permits).

BOARD NOTE: Derived from 40 CFR 270.10(k) ~~(2005)(2002)~~.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

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Section 703.189 Additional Information Required to Assure Compliance with MACT Standards

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

- a) The Agency shall base the evaluation of whether compliance with the standards of subpart EEE of 40 CFR 63 alone adequately protects human health and the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including, as appropriate, any of the following factors:
- 1) Particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;
 - 2) The identities and quantities of emissions of persistent, bioaccumulative or toxic pollutants considering enforceable controls in place to limit those pollutants;
 - 3) The identities and quantities of non-dioxin products of incomplete combustion most likely to be emitted and to pose significant risk based on known toxicities (confirmation of which should be made through emissions testing);
 - 4) The identities and quantities of other off-site sources of pollutants in proximity of the facility that significantly influence interpretation of a facility-specific risk assessment;
 - 5) The presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;

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

BOARD NOTE: Derived from 40 CFR 270.10(1), as added at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Added at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.191 Public Participation: Pre-Application Public Notice and Meeting

- a) Applicability. ~~This~~The requirements of this Section ~~applies~~must apply to any RCRA Part B application seeking an initial permit for a hazardous waste management unit. ~~This~~The requirements of this Section ~~must~~also applies to any RCRA Part B application seeking renewal of a permit for such a unit, where the renewal application is proposing a significant change in facility operations. For the purposes of this Section, a "significant change" is any change that would qualify as a class 3 permit modification ~~pursuant to~~under Section 703.283 and Appendix A to this Part. This Section also applies to a hazardous waste management facility for which facility the owner or operator is seeking coverage under a RCRA standardized permit (see Subpart J of this Part), including renewal of a RCRA standardized permit for such a unit, where the renewal is proposing a significant change in facility operations, as defined at 35 Ill. Code 705.304(a)(3). ~~This~~The requirements of this Section ~~does~~do not apply to any permit ~~modification~~modifications ~~pursuant to~~under Sections 703.280 through 703.283 or to any application~~applications~~ that ~~is~~are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

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- b) Prior to the submission of a RCRA Part B permit application ~~for a facility~~ or the submission of a written Notice of Intent to be covered by a RCRA standardized permit (see Subpart J of this Part), the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of its proposed hazardous waste management activities. The applicant must post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.
- c) The applicant must submit to the Agency, as part of its RCRA Part B permit application or the submission of a written Notice of Intent to be covered by a RCRA standardized permit (see Subpart J of this Part), a summary of the meeting, along with the list of attendees and their addresses developed ~~pursuant to~~ under subsection (b) of this Section and copies of any written comments or materials submitted at the meeting, in accordance with Section 703.183.
- d) The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain documentation of the notice and provide that documentation to the permitting agency upon request.
- 1) The applicant must provide public notice in each of the following forms:
- A) A newspaper advertisement. The applicant must publish a notice in a newspaper of general circulation in the county that hosts the proposed location of the facility. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. In addition, the Agency must instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties, where the Agency determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.
- B) A visible and accessible sign. The applicant must post a notice on a clearly marked sign at or near the facility. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.
- C) A broadcast media announcement. The applicant must broadcast a

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notice at least once on at least one local radio station or television station. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. The applicant may employ another medium with prior approval of the Agency.

- D) A notice to the Agency. The applicant must send a copy of the newspaper notice to the permitting agency and to the appropriate units of State and local government, in accordance with 35 Ill. Adm. Code 705.163(a).
- 2) The notices required ~~pursuant to~~ subsection (d)(1) of this Section must include the following:
- A) The date, time, and location of the meeting;
 - B) A brief description of the purpose of the meeting;
 - C) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;
 - D) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and
 - E) The name, address, and telephone number of a contact person for the applicant.

BOARD NOTE: Derived from 40 CFR 124.31 (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005)(2002).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.192 Public Participation: Public Notice of Application

- a) Applicability. ~~This~~The requirements of this Section ~~applies~~ must apply to any RCRA Part B application seeking an initial permit for a hazardous waste management unit. ~~This~~The requirements of this Section ~~must~~ also ~~applies~~ apply to any RCRA Part B application seeking renewal of a permit for such a unit ~~pursuant to~~ 35 Ill. Adm. Code 702.125. ~~This~~The requirements of this Section ~~does~~ do

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not apply to hazardous waste units for which facility owners or operators are seeking coverage under a RCRA standardized permit (see Subpart J of this Part). This Section also does not apply to permit modifications pursuant to~~under~~ Sections 703.280 through 703.283 or a permit application submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

- b) Notification at application submittal.
- 1) The Agency must provide public notice₂ as set forth in 35 Ill. Adm. Code 705.161, and notice to appropriate units of State and local government₂ as set forth in 35 Ill. Adm. Code 705.163(a)(5), that a Part B permit application has been submitted to the Agency and is available for review.
 - 2) The notice must be published within 30 calendar days after the application is received by the Agency. The notice must include the following information:
 - A) The name and telephone number of the applicant's contact person;
 - B) The name and telephone number of the appropriate Agency regional office, as directed by the Agency, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;
 - C) An address to which people can write in order to be put on the facility mailing list;
 - D) The location where copies of the permit application and any supporting documents can be viewed and copied;
 - E) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and
 - F) The date that the application was submitted.
- c) Concurrent with the notice required pursuant to~~under~~ subsection (b) of this Section, the Agency must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at

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the Agency regional office appropriate for the facility.

BOARD NOTE: Derived from 40 CFR 124.32 (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005)(2002).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.205 Incinerators that Burn Hazardous Waste

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

- a) When seeking exemption pursuant to~~under~~ 35 Ill. Adm. Code 724.440(b) or (c) (ignitable, corrosive, or reactive wastes only), the applicant must fulfill the following requirements:
 - 1) Documentation that the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both;
 - 2) Documentation that the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is reactive (Hazard Code R) for characteristics other than those listed in 35 Ill. Adm. Code 721.123(a)(4) and (a)(5) and will not be burned when other hazardous wastes are present in the combustion zone;
 - 3) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability or corrosivity, or both, as determined by the tests for characteristics of hazardous wastes pursuant to~~under~~ Subpart C of 35 Ill. Adm. Code 721; or
 - 4) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in 35 Ill. Adm. Code 721.123(a)(1) through (a)(3) or (a)(6) through (a)(8), and that it will not be burned when other hazardous wastes are present in the combustion zone.
- b) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.222 through 703.224.

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- c) In lieu of a trial burn, the applicant may submit the following information:
- 1) An analysis of each waste or mixture of wastes to be burned including the following:
 - A) Heat value of the waste in the form and composition in which it will be burned;
 - B) Viscosity (if applicable) or description of physical form of the waste;
 - C) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H to 35 Ill. Adm. Code 721 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical methods;
 - D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the appropriate analytical methods; and
 - E) A quantification of those hazardous constituents in the waste that may be designated as POHCs based on data submitted from other trial or operational burns that demonstrate compliance with the performance standard in 35 Ill. Adm. Code 724.443;

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

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

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

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

- 2) A detailed engineering description of the incinerator, including the following:
 - A) Manufacturer's name and model number of incinerator;
 - B) Type of incinerator;
 - C) Linear dimension of incinerator unit including cross sectional area of combustion chamber;
 - D) Description of auxiliary fuel system (type/feed);
 - E) Capacity of prime mover;
 - F) Description of automatic waste feed cutoff systems;
 - G) Stack gas monitoring and pollution control monitoring system;
 - H) Nozzle and burner design;
 - I) Construction materials; and
 - J) Location and description of temperature, pressure and flow indicating devices and control devices;
- 3) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in subsection (c)(1) of this Section. This analysis should specify the POHCs that the applicant has identified in the waste for which a permit is sought, and any differences from the POHCs in the waste for which burn data are provided;

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- 4) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;
- 5) A description of the results submitted from any previously conducted trial burns, including the following:
 - A) Sampling and analysis techniques used to calculate performance standards in 35 Ill. Adm. Code 724.443;
 - B) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement); and
 - C) The certification and results required by subsection (b) of this Section;
- 6) The expected incinerator operation information to demonstrate compliance with 35 Ill. Adm. Code 724.443 and 724.445, including the following:
 - A) Expected carbon monoxide (CO) level in the stack exhaust gas;
 - B) Waste feed rate;
 - C) Combustion zone temperature;
 - D) Indication of combustion gas velocity;
 - E) Expected stack gas volume, flow rate, and temperature;
 - F) Computed residence time for waste in the combustion zone;
 - G) Expected hydrochloric acid removal efficiency;
 - H) Expected fugitive emissions and their control procedures; and
 - I) Proposed waste feed cut-off limits based on the identified significant operating parameters;

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- 7) The Agency may, pursuant to 35 Ill. Adm. Code 705.122, request such additional information as may be necessary for the Agency to determine whether the incinerator meets the requirements of Subpart O of 35 Ill. Adm. Code 724 and what conditions are required by that Subpart and Section 39(d) of the Environmental Protection Act [415 ILCS 5/39(d)]; and
- 8) Waste analysis data, including that submitted in subsection (c)(1) of this Section, sufficient to allow the Agency to specify as permit Principal Organic Hazardous Constituents (permit POHCs) those constituents for which destruction and removal efficiencies will be required.
- d) The Agency must approve a permit application without a trial burn if it finds the following:
- 1) The wastes are sufficiently similar; and
 - 2) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (~~pursuant to under~~ 35 Ill. Adm. Code 724.445) operating conditions that will ensure that the performance standards in 35 Ill. Adm. Code 724.443 will be met by the incinerator.
- e) When ~~the an~~ owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when the owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance ~~pursuant to under~~ 40 CFR 63.1207(j) and ~~63.1210(d)63.1210(b)~~ documenting compliance with all applicable requirements of subpart EEE of 40 CFR 63), ~~the requirements of~~ this Section ~~does do~~ not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) if the owner or operator elects to comply with Section 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241 (a)(2) and (a)(3)(b)(2).

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

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

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.208 Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement or lightweight aggregate kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when the owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance ~~pursuant to~~ under 40 CFR 63.1207(j) and 63.1210(d)~~63.1210(b)~~ documenting compliance with all applicable requirements of subpart EEE of 40 CFR 63), ~~the requirements of this Section does~~ not apply. This Section applies, however, if, except those provisions that the Agency determines certain provisions are necessary to ensure compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section 703.320(a)(1)(A)~~703.310(a)(1)(A)~~ to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if the facility is an area source and the owner or operator elects to comply with the Sections 726.205, 726.206, and 726.207 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or if the Agency determines that certain provisions apply. ~~Nevertheless, the Agency may apply the provisions of this Section~~, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and~~and~~ 703.241(a)(2) and (a)(3).

- a) Trial burns.
 - 1) General. Except as provided below, an owner or operator that is subject to the standards to control organic emissions provided by 35 Ill. Adm. Code 726.204, standards to control particulate matter provided by 35 Ill. Adm. Code 726.205, standards to control metals emissions provided by 35 Ill.

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Adm. Code 726.206, or standards to control hydrogen chloride (HCl) or chlorine gas emissions provided by 35 Ill. Adm. Code 726.207 must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.232.

- A) ~~Pursuant to Under~~ subsections (a)(2) through (a)(5) of this Section and 35 Ill. Adm. Code 726.204 through 726.207, the Agency may waive a trial burn to demonstrate conformance with a particular emission standard; and
 - B) The owner or operator may submit data in lieu of a trial burn, as prescribed in subsection (a)(6) of this Section.
- 2) Waiver of trial burn of DRE (destruction removal efficiency).
- A) Boilers operated under special operating requirements. When seeking to be permitted ~~pursuant to under~~ 35 Ill. Adm. Code 726.204(a)(4) and 726.210, which automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by 35 Ill. Adm. Code 726.210.
 - B) Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by 35 Ill. Adm. Code 726.204(a)(5) and 726.209(a), which waive the DRE trial burn, the owner or operator must submit the following:
 - i) Documentation that the device is operated in conformance with ~~the requirements of~~ 35 Ill. Adm. Code 726.209(a)(1).
 - ii) Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in Appendix H to 35 Ill. Adm. Code 721, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on appropriate analytical methods.

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

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

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

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

- iii) Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in subsection (a)(2)(B)(ii) of this Section using procedures provided by 35 Ill. Adm. Code 726.209(a)(2)(B).
- iv) Results of emissions dispersion modeling for emissions identified in subsection (a)(2)(B)(iii) of this Section using modeling procedures prescribed by 35 Ill. Adm. Code 726.206(h). The Agency must review the emission modeling conducted by the applicant to determine conformance with these procedures. The Agency must either approve the modeling or determine that alternate or supplementary modeling is appropriate.
- v) Documentation that the maximum annual average ground level concentration of each constituent identified in subsection (a)(2)(B)(ii) of this Section quantified in conformance with subsection (a)(2)(B)(iv) of this Section does not exceed the allowable ambient level established in

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Appendix D or E to 35 Ill. Adm. Code 726. The acceptable ambient concentration for emitted constituents for which a specific reference air concentration has not been established in Appendix D to 35 Ill. Adm. Code 726 or risk-specific doses has not been established in Appendix E to 35 Ill. Adm. Code 726 is 0.1 micrograms per cubic meter, as noted in the footnote to Appendix D to 35 Ill. Adm. Code 726.

- 3) Waiver of trial burn for metals. When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) and (e) that control metals emissions without requiring a trial burn, the owner or operator must submit the following:
 - A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;
 - B) Documentation of the concentration of each metal controlled by 35 Ill. Adm. Code 726.206(b) or (c) in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of each metal;
 - C) Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) or (e) will not be exceeded during the averaging period provided by that subsection;
 - D) Documentation to support the determination of the TESH (terrain-adjusted effective stack height), good engineering practice stack height, terrain type, and land use, as provided by 35 Ill. Adm. Code 726.206(b)(3) through (b)(5);
 - E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.206(b)(6), if applicable, for facilities with multiple stacks;
 - F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.206(b)(7) for eligibility to comply with the screening limits; and

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

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- G) Proposed sampling and analysis plan for total chlorine and chloride for the hazardous waste, other fuels, and industrial furnace feedstocks.
- 6) Data in lieu of trial burn. The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with Section 703.232 and 35 Ill. Adm. Code 726.204 through 726.207 by providing the information required by Section 703.232 from previous compliance testing of the device in conformance with 35 Ill. Adm. Code 726.203 or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by Section 703.232 must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Agency must approve a permit application without a trial burn if the Agency finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (~~pursuant to under~~ 35 Ill. Adm. Code 726.102) operating conditions that will ensure conformance with 35 Ill. Adm. Code 726.102(c). In addition, the following information must be submitted:
- A) For a waiver from any trial burn, the following:
- i) A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing or operational or trial burns are provided to support the contention that a trial burn is not needed;
 - ii) The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and
 - iii) Such supplemental information as the Agency finds necessary to achieve the purposes of this subsection (a).
- B) For a waiver of the DRE trial burn, the basis for selection of

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

- b) Alternative HC limit for industrial furnaces with organic matter in raw materials. An owner or operator of industrial furnaces requesting an alternative HC limit ~~pursuant to~~ 35 Ill. Adm. Code 726.204(f) must submit the following information at a minimum:
- 1) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;
 - 2) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;
 - 3) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuels and destruction of hydrocarbon emissions from nonfuel sources;
 - 4) Trial burn plan to do the following:
 - A) To demonstrate when burning hazardous waste that flue gas HC (and CO) concentrations do not exceed the baseline HC (and CO) level; and
 - B) To identify, in conformance with Section 703.232(d), the types and concentrations of organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 that are emitted when burning hazardous waste;

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- 5) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and
 - 6) Such other information as the Agency finds necessary to achieve the purposes of this subsection (b).
- c) Alternative metals implementation approach. When seeking to be permitted under an alternative metals implementation approach ~~pursuant to~~ under 35 Ill. Adm. Code 726.206(f), the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of 35 Ill. Adm. Code 726.106(c) or (d) and how the approach can be effectively implemented and monitored. Further, the owner or operator must provide such other information that the Agency finds necessary to achieve the purposes of this subsection (c).
- d) Automatic waste feed cutoff system. An owner or operator must submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.
- e) Direct transfer. An owner or operator that uses direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in 35 Ill. Adm. Code 726.211) directly to the boiler or industrial furnace must submit information supporting conformance with the standards for direct transfer provided by 35 Ill. Adm. Code 726.211.
- f) Residues. An owner or operator that claims that its residues are excluded from regulation ~~pursuant to under the provisions of~~ 35 Ill. Adm. Code 726.212 must submit information adequate to demonstrate conformance with those provisions.

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

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.210 Process Vents

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

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

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

BOARD NOTE: Derived from 40 CFR 270.24 (2005), [as amended at 70 Fed. Reg. 59402 \(Oct. 12, 2005\)](#).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.211 Equipment

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

- a) For each piece of equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies, the following:

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

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

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

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

SUBPART E: ~~SPECIAL FORMS OF SHORT-TERM AND PHASED~~ PERMITS

Section 703.220 Emergency Permits

- a) Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, in the event that the Agency finds an imminent and substantial endangerment to human health or the environment, the Agency may issue a temporary emergency permit, as follows:
 - 1) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or
 - 2) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

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- b) This emergency permit must comply with all of the following requirements:
- 1) May be oral or written. If oral, it must be followed in five days by a written emergency permit.
 - 2) Shall not exceed 90 days in duration.
 - 3) Shall clearly specify the hazardous wastes to be received and the manner and location of their treatment, storage, or disposal.
 - 4) May be terminated by the Agency at any time without process if it determines that termination is appropriate to adequately protect human health and the environment.
 - 5) Shall be accompanied by a public notice published pursuant to~~under~~ 35 Ill. Adm. Code 705.162 including the following:
 - A) Name and address of the office granting the emergency authorization;
 - B) Name and location of the permitted HWM facility;
 - C) A brief description of the wastes involved;
 - D) A brief description of the action authorized and reasons for authorizing it; and
 - E) Duration of the emergency permit.
 - 6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this Part and 35 Ill. Adm. Code 724.
 - 7) Emergency permits that would authorize actions not in compliance with Board rules, other than procedural requirements, require a variance or provisional variance pursuant to Title IX of the Environmental Protection Act [415 ILCS 5/Title IX]~~and 35 Ill. Adm. Code 104.~~

BOARD NOTE: Derived from 40 CFR 270.61 (2005)~~(2002)~~.

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(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.221 Alternative Compliance with the Federal NESHAPS

When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance pursuant to ~~under~~ 40 CFR 63.1207(j) and 63.1210(d)~~63.1210(b)~~ documenting compliance with all applicable requirements of subpart EEE of~~to~~ 40 CFR 63), the requirements of Sections 703.221 through 703.225 do not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) if the owner or operator elects to comply with Section 703.320(a)(1)(A)~~703.310(a)(1)(A)~~ to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of Sections 703.221 through 703.225, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241(a)(2) and (a)(3).

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

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.231 Research, Development and Demonstration Permits

- a) The Agency may issue a research, development, and demonstration permit for any hazardous waste treatment facility that proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated pursuant to ~~under~~ 35 Ill. Adm. Code 724 or 726. Any such permit must include such terms and conditions as will adequately protect ~~assure protection of~~ human health and the environment. Such a permit must provide as follows:
 - 1) It must provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year, unless renewed as provided in subsection (d) of this Section;

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- 2) It must provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and
 - 3) It must include such requirements as necessary to adequately protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as necessary regarding testing and providing of information to the Agency with respect to the operation of the facility.
- b) For the purpose of expediting review and issuance of permits pursuant to~~under~~ this Section, the Agency may, consistent with adequate~~the~~ protection of human health and the environment, modify or waive permit application and permit issuance requirements in this Part and 35 Ill. Adm. Code 702 and 705 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.
 - c) Pursuant to Section 34 of the Act [415 ILCS 5/34], the Agency may order an immediate termination of all operations at the facility at any time it determines that termination is necessary to adequately protect human health and the environment. The permittee may seek Board review of the termination pursuant to Section 34(d) of the Act [415 ILCS 5/39(d)].
 - d) Any permit issued pursuant to~~under~~ this Section may be renewed not more than three times. Each such renewal must be for a period of not more than one year.

BOARD NOTE: Derived from 40 CFR 270.65 (2005)~~(2002)~~.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement kiln,~~or~~ lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005 or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production

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furnace demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance ~~pursuant to~~ 40 CFR 63.1207(j) and ~~63.1210(d)63.1210(b)~~ documenting compliance with all applicable requirements of subpart EEE of 40 CFR 63), ~~the requirements of this Section does~~ not apply. This Section does apply, however, if, except those provisions that the Agency determines certain provisions are necessary to ensure compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section ~~703.320(a)(1)(A)703.310(a)(1)(A)~~ to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if the facility is an area source and the owner or operator elects to comply with the Sections 726.205, 726.206, and 726.207 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or if the Agency determines certain provisions apply, ~~Nevertheless, the Agency may apply the provisions of this Section,~~ on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241(a)(2) and (a)(3).

- a) General. The owner or operator of a new boiler or industrial furnace (one not operating under the interim status standards of 35 Ill. Adm. Code 726.203) is subject to subsections (b) through (f) of this Section. A boiler or industrial furnace operating under the interim status standards of 35 Ill. Adm. Code 726.203 is subject to subsection (g) of this Section.
- b) Permit operating periods for a new boiler or industrial furnace. A permit for a new boiler or industrial furnace must specify appropriate conditions for the following operating periods:
 - 1) Pretrial burn period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operation readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Agency must establish permit conditions in the pretrial burn period, including but not limited to allowable hazardous waste feed rates and operating conditions. The Agency must extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit must be modified to reflect the extension according to Sections 703.280 through 703.283.

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- A) Applicants must submit a statement, with Part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of 35 Ill. Adm. Code 726.204 through 726.207 during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in 35 Ill. Adm. Code 726.202(e).
- B) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
- 2) Trial burn period. For the duration of the trial burn, the Agency must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and determining adequate operating conditions ~~pursuant to~~ pursuant to 35 Ill. Adm. Code 726.202(e). Applicants must propose a trial burn plan, prepared pursuant to ~~under~~ subsection (c) of this Section, to be submitted with Part B of the permit application.
- 3) Post-trial burn period.
- A) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Agency to reflect the trial burn results, the Agency must establish the operating requirements most likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
- B) Applicants must submit a statement, with Part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. This statement should include, at a minimum, restrictions on the operating requirements provided by 35 Ill. Adm. Code 726.202(e).

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- C) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements of this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
- 4) Final permit period. For the final period of operation the Agency must develop operating requirements in conformance with 35 Ill. Adm. Code 726.202(e) that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. Based on the trial burn results, the Agency must make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification must proceed according to Sections 703.280 through 703.283.
- c) Requirements for trial burn plans. The trial burn plan must include the following information. The Agency, in reviewing the trial burn plan, must evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection (c).
- 1) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes the following:
- A) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine and chloride, and ash; and
- B) Viscosity or description of the physical form of the feed stream.
- 2) An analysis of each hazardous waste, as fired, including the following:
- A) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the feed stream, except that the applicant need not analyze for constituents listed in Appendix H that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The analysis must be conducted in accordance with

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appropriate analytical methods;

- B) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the appropriate analytical methods; and
- C) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

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

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

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

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

- 3) A detailed engineering description of the boiler or industrial furnace, including the following:
 - A) Manufacturer's name and model number of the boiler or industrial furnace;
 - B) Type of boiler or industrial furnace;
 - C) Maximum design capacity in appropriate units;

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- D) Description of the feed system for the hazardous waste and, as appropriate, other fuels and industrial furnace feedstocks;
 - E) Capacity of hazardous waste feed system;
 - F) Description of automatic hazardous waste feed cutoff systems;
 - G) Description of any pollution control system; and
 - H) Description of stack gas monitoring and any pollution control monitoring systems.
- 4) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and sample analysis.
 - 5) A detailed test schedule for each hazardous waste for which the trial burn is planned, including dates, duration, quantity of hazardous waste to be burned, and other factors relevant to the Agency's decision pursuant to ~~under~~ subsection (b)(2) of this Section.
 - 6) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in 35 Ill. Adm. Code 726.204 through 726.207.
 - 7) A description of and planned operating conditions for any emission control equipment that will be used.
 - 8) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.
 - 9) Such other information as the Agency finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection (c) and the criteria in subsection (b)(2) of this Section.
- d) Trial burn procedures.

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- 1) A trial burn must be conducted to demonstrate conformance with the standards of 35 Ill. Adm. Code 726.104 through 726.107.
- 2) The Agency must approve a trial burn plan if the Agency finds as follows:
 - A) That the trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of 35 Ill. Adm. Code 726.104 through 726.107;
 - B) That the trial burn itself will not present an imminent hazard to human health and the environment;
 - C) That the trial burn will help the Agency to determine operating requirements to be specified pursuant to~~under~~ 35 Ill. Adm. Code 726.102(e); and
 - D) That the information sought in the trial burn cannot reasonably be developed through other means.
- 3) The Agency must send a notice to all persons on the facility mailing list, as set forth in 35 Ill. Adm. Code 705.161(a), and to the appropriate units of State and local government, as set forth in 35 Ill. Adm. Code 705.163(a)(5), announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Agency has issued such notice.
 - A) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the Agency.
 - B) This notice must contain the following:
 - i) The name and telephone number of applicant's contact person;
 - ii) The name and telephone number of the Agency regional office appropriate for the facility;
 - iii) The location where the approved trial burn plan and any

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supporting documents can be reviewed and copied; and

- iv) An expected time period for commencement and completion of the trial burn.
- 4) The applicant must submit to the Agency a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and submit the results of all the determinations required in subsection (c) of this Section. The Agency must, in the trial burn plan, require that the submission be made within 90 days after completion of the trial burn, or later if the Agency determines that a later date is acceptable.
- 5) All data collected during any trial burn must be submitted to the Agency following completion of the trial burn.
- 6) All submissions required by this subsection (d) must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report ~~pursuant to~~ 35 Ill. Adm. Code 702.126.
- e) Special procedures for DRE trial burns. When a DRE trial burn is required ~~pursuant to~~ 35 Ill. Adm. Code 726.104, the Agency must specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Agency based on information including the Agency's estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in Subpart D of 35 Ill. Adm. Code 721, the hazardous waste organic constituents identified in Appendix G to 35 Ill. Adm. Code 721 as the basis for listing.
- f) Determinations based on trial burn. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:
 - 1) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

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- 2) When a DRE trial burn is required pursuant to~~under~~ 35 Ill. Adm. Code 726.204(a), the following determinations:
 - A) A quantitative analysis of the trial POHCs in the hazardous waste feed;
 - B) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and
 - C) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 35 Ill. Adm. Code 726.204(a);
- 3) When a trial burn for chlorinated dioxins and furans is required pursuant to~~under~~ 35 Ill. Adm. Code 726.204(e), a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra- through octa-congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard;
- 4) When a trial burn for PM, metals, or HCl and chlorine gas is required pursuant to~~under~~ 35 Ill. Adm. Code 726.205, 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the stack gas for the concentrations and mass emissions of PM, metals, or HCl and chlorine gas, and computations showing conformance with the applicable emission performance standards;
- 5) When a trial burn for DRE, metals, and HCl and chlorine gas is required pursuant to~~under~~ 35 Ill. Adm. Code 726.204(a), 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine and chloride;
- 6) An identification of sources of fugitive emissions and their means of control;
- 7) A continuous measurement of carbon monoxide (CO), oxygen, and, where required, hydrocarbons (HC) in the stack gas; and
- 8) Such other information as the Agency specifies as necessary to ensure that

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the trial burn will determine compliance with the performance standards 35 Ill. Adm. Code 726.204 through 726.207 and to establish the operating conditions required by 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions ~~pursuant to under~~ 35 Ill. Adm. Code 726.203, and to establish the operating conditions required by 35 Ill. Adm. Code 726.202(e) as necessary to meet those performance standards.

- g) Interim status boilers and industrial furnaces. For the purpose of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions ~~pursuant to under~~ 35 Ill. Adm. Code 726.203, an applicant that owns or operates an existing boiler or industrial furnace ~~that which~~ is operated under the interim status standards of 35 Ill. Adm. Code 726.203 must either prepare and submit a trial burn plan and perform a trial burn in accordance with ~~the requirements of this~~ Section or submit other information as specified in Section 703.208(a)(6). The Agency must announce its intention to approve of the trial burn plan in accordance with the timing and distribution requirements of subsection (d)(3) of this Section. The contents of the notice must include all of the following information: the name and telephone number of a contact person at the facility; the name and telephone number of the Agency regional office appropriate for the facility; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for Agency approval of the plan, and the time periods during which the trial burn would be conducted. Applicants that submit a trial burn plan and receive approval before submission of the Part B permit application must complete the trial burn and submit the results specified in subsection (f) of this Section with the Part B permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Agency to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Agency.

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

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.238 RCRA Standardized Permits for Storage and Treatment Units

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A RCRA standardized permit is a special form of permit for the owner or operator of a TSD that engages in either of the following activities:

- a) It generates hazardous waste and then non-thermally treats or stores the hazardous waste on-site in tanks, containers, or containment buildings; or
- b) It receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then it stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings. The owner or operator of a facility operating under a RCRA standardized permit is regulated pursuant to Subpart J of this Part, Subpart G of 35 Ill. Adm. Code 705, and 35 Ill. Adm. Code 727.

BOARD NOTE: Derived from 40 CFR 270.67, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 487, effective December 20, 2006)

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section 703.241 Establishing Permit Conditions

- a) General conditions:
 - 1) In addition to the conditions established ~~pursuant to under~~ 35 Ill. Adm. Code 702.160(a), each RCRA permit must include permit conditions necessary to achieve compliance with each of the applicable requirements specified in 35 Ill. Adm. Code 724 and 726 through 728. In satisfying this provision, the Agency may incorporate applicable requirements of 35 Ill. Adm. Code 724 and 726 through 728 directly into the permit or establish other permit conditions that are based on these Parts;
 - 2) Each RCRA permit issued ~~pursuant to under~~ Section 39(d) of the Environmental Protection Act [415 ILCS 5/39(d)] must contain terms and conditions that the Agency determines are necessary to adequately protect human health and the environment and:-
 - 3) If, as the result of an assessments or other information, the Agency determines that conditions, in addition to those required under subpart EEE of 40 CFR 63 or 35 Ill. Adm. Code 724 or 725, are necessary to

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ensure adequate protection of human health and the environment, the Agency must include those terms and conditions in a RCRA permit for a hazardous waste combustion unit.

BOARD NOTE: Subsection (a) derived from 270.32(b) (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2006)(2002).

- b) The conditions specified in this Subpart **F**, in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152, apply to all RCRA permits.

BOARD NOTE: Subsection (b) derived from 40 CFR 270.30 preamble (2005)(2002).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.246 Reporting Requirements

The following reports required by 35 Ill. Adm. Code 724 must be submitted in addition to those required by 35 Ill. Adm. Code 702.152 (reporting requirements):

- a) Manifest discrepancy report: if a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within 15 days, the permittee must submit a letter report including a copy of the manifest to the Agency (see 35 Ill. Adm. Code 724.172).
- b) Unmanifested waste report: if hazardous waste is received without an accompanying manifest, the permittee must submit an unmanifested waste report to the Agency within 15 days of receipt of unmanifested waste. (see 35 Ill. Adm. Code 724.176)
- c) Facility activities~~Annual~~ report: a facility activities~~an annual~~ report must be submitted covering facility activities as described in during the previous calendar year ~~(see 35 Ill. Adm. Code 724.175).~~

BOARD NOTE: Derived from 40 CFR 270.30(l)(7) through (l)(9) (2005) (2002).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

SUBPART G: CHANGES TO PERMITS

Section 703.260 Transfer

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- a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or reissued (~~pursuant to under~~ subsection (b) of this Section or Section 703.272) to identify the new permittee and incorporate such other requirements as are necessary under the appropriate Act. The new owner or operator to whom the permit is transferred must comply with all the terms and conditions specified in such permit.
- b) Changes in the ownership or operational control of a facility must be made as a Class 1 modification with the prior written approval of the Agency in accordance with Section 703.281 or as a routine change with prior Agency approval pursuant to 35 Ill. Adm. Code 705.304(c). The new owner or operator must submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Agency. When a transfer of ownership or operational control occurs, the old owner or operator must comply with ~~the requirements of~~ Subpart H of 35 Ill. Adm. Code 724 (Financial Requirements), until the new owner or operator has demonstrated compliance with that Subpart. The new owner or operator must demonstrate compliance with that Subpart within six months after the date of change of operational control of the facility. Upon demonstration to the Agency by the new owner or operator of compliance with that Subpart, the Agency must notify the old owner or operator that the old owner or operator no longer needs to comply with that Subpart as of the date of demonstration.

BOARD NOTE: Derived from 40 CFR 270.40 (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005)(2002).

BOARD NOTE: The new operator may be required to employ a chief operator that is certified pursuant to 35 Ill. Adm. Code 745.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.270 Modification

When the Agency receives any information (for example, inspects the facility, receives information submitted by the permittee, as required in the permit (see 35 Ill. Adm. Code 702.140 through 702.152 and Section 703.241 et seq.), receives a request for reissuance ~~pursuant to under~~ 35 Ill. Adm. Code 705.128, or conducts a review of the permit file) it may determine whether or not one or more of the causes, listed in Sections 703.271 or 703.272, for modification,

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reissuance, or both, exist. If cause exists, the Agency must modify or reissue the permit accordingly, subject to the limitations of Section 703.273, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (~~See~~ 35 Ill. Adm. Code 705.128(c)(2).) If cause does not exist pursuant to ~~under~~ Section 703.271 or 703.272, the Agency must not modify or reissue the permit, except on the request of the permittee. If a permit modification is requested by the permittee, the Agency must approve or deny the request according to the procedures of Section 703.280 through 703.283 or Section 703.353 and Subpart G of 35 Ill. Adm. Code 705-et seq. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 must be followed.

BOARD NOTE: Derived from the preamble to 40 CFR 270.41 (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005)(2002). The Board has chosen to use "reissue" where the corresponding federal provisions use "revoke and reissue." This was because permit revocation is a remedy in the context of an enforcement action that is reserved to the Board. See 415 ILCS 5/33(b) (2004); 35 Ill. Adm. Code 702.186 (2004). The Board intends that a reissued permit completely supercede the earlier version of that permit.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.271 Causes for Modification

The following are cause for modification, but not reissuance, of permits; the following are cause for reissuance as well as modification when the permittee requests or agrees:

- a) Alterations. There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
- b) Information. The Agency has received information. Permits will be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.
- c) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued.

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- d) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy.
- e) The Agency must also modify a permit as follows:
- 1) When modification of a closure plan is required under 35 Ill. Adm. Code 724.212(b) or 724.218(b).
 - 2) After the Agency receives the notification of expected closure under 35 Ill. Adm. Code 724.213, when the Agency determines that extension of the 90 or 180 day periods under 35 Ill. Adm. Code 724.213, modification of the 30-year post-closure period under 35 Ill. Adm. Code 724.217(a), continuation of security requirements under 35 Ill. Adm. Code 724.217(b), or permission to disturb the integrity of the containment system under 35 Ill. Adm. Code 724.217(c) are unwarranted.
 - 3) When the permittee has filed a request under 35 Ill. Adm. Code 724.247(c) for a modification to the level of financial responsibility or when the Agency demonstrates under 35 Ill. Adm. Code 724.247(d) that an upward adjustment of the level of financial responsibility is required.
 - 4) When the corrective action program specified in the permit under 35 Ill. Adm. Code 724.200 has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of time.
 - 5) To include a detection monitoring program meeting the requirements of 35 Ill. Adm. Code 724.198, when the owner or operator has been conducting a compliance monitoring program under 35 Ill. Adm. Code 724.199 or a corrective action program under 35 Ill. Adm. Code 724.200, and the compliance period ends before the end of the post-closure care period for the unit.
 - 6) When a permit requires a compliance monitoring program under 35 Ill. Adm. Code 724.199, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard.

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- 7) To include conditions applicable to units at a facility that were not previously included in the facility's permit.
- 8) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.
- f) Notwithstanding any other provision of this Section, when a permit for a land disposal facility is reviewed under 35 Ill. Adm. Code 702.161(d), the Agency must modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this Part and 35 Ill. Adm. Code 702, 703, and 720 through 727~~726~~.

BOARD NOTE: Derived from 40 CFR 270.41(a) ~~(2005)(2002)~~.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.272 Causes for Modification or Reissuance

The following are causes to modify or, alternatively, reissue a permit:

- a) This subsection (a) corresponds with 40 CFR 270.41(b)(1), which pertains to termination of a permit, which is not possible through an administrative action of the Agency. This statement maintains structural consistency with the corresponding federal rules.
- b) The Agency has received notification (as required in the permit, see 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of the permit; ~~or~~
- c) The Agency has received notification under 35 Ill. Adm. Code 705.301(a)(2) of a facility owner's or operator's intent to be covered by a RCRA standardized permit.

BOARD NOTE: Derived from 40 CFR 270.41(b) ~~(2005)~~, as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005), as amended at 53 Fed. Reg. 37924, September 28, 1988.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.280 Permit Modification at the Request of the Permittee

- a) Class 1 modifications. See Section 703.281.

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

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

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local governments, as specified in 35 Ill. Adm. Code 705.163(a)(5). This notification must be made within seven days after submission of the authorization request.

- 3) The Agency must approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Agency must find as follows:
 - A) That the authorized activities are in compliance with the standards of 35 Ill. Adm. Code 724.
 - B) That the temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:
 - i) To facilitate timely implementation of closure or corrective action activities;
 - ii) To allow treatment or storage in tanks, containers, or containment buildings, in accordance with 35 Ill. Adm. Code 728;
 - iii) To prevent disruption of ongoing waste management activities;
 - iv) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or
 - v) To facilitate other changes to adequately protect human health and the environment.
- 4) A temporary authorization must be reissued for one additional term of up to 180 days, provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and either of the following is true:
 - A) The reissued temporary authorization constitutes the Agency's decision on a Class 2 permit modification in accordance with Section 703.282(f)(1)(D) or (f)(2)(D); or

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- B) The Agency determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of 35 Ill. Adm. Code 703.283 are conducted.
- f) Public notice and appeals of permit modification decisions.
- 1) The Agency must notify persons on the facility mailing list and appropriate units of State and local government within 10 days after any decision to grant or deny a Class 2 or 3 permit modification request. The Agency must also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect ~~pursuant to~~ Section 703.282(f)(3) or (f)(5).
 - 2) The Agency's decision to grant or deny a Class 2 or 3 permit modification request may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212.
 - 3) An automatic authorization that goes into effect ~~pursuant to~~ Section 703.282(f)(3) or (f)(5) may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the Board enters a final order on the appeal notwithstanding the provisions of 35 Ill. Adm. Code 705.204.
- g) Newly regulated wastes and units.
- 1) The permittee is authorized to continue to manage wastes listed or identified as hazardous ~~pursuant to~~ 35 Ill. Adm. Code 721, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if each of the following is true:
 - A) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;
 - B) The permittee submits a Class 1 modification request on or before the date on which the waste becomes subject to the new

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requirements;

- C) The permittee is in compliance with the applicable standards of 35 Ill. Adm. Code 725 and 726;
 - D) The permittee also submits a complete class 2 or 3 modification request within 180 days after the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards ~~pursuant to~~ 35 Ill. Adm. Code 724, 725, or 726; and
 - E) In the case of land disposal units, the permittee certifies that such unit is in compliance with all applicable requirements of 35 Ill. Adm. Code 725 for groundwater monitoring and financial responsibility requirements on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, the owner or operator loses authority to operate ~~pursuant to~~ this Section.
- 2) New wastes or units added to a facility's permit ~~pursuant to~~ this subsection (g) do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.
- h) Military hazardous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if each of the following is true:
- 1) The facility was in existence as a hazardous waste facility and the facility was already permitted to handle the waste military munitions on the date when the waste military munitions became subject to hazardous waste regulatory requirements;
 - 2) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

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- 3) The permittee submits a complete Class 2 modification request within 180 days after the date when the waste military munitions became subject to hazardous waste regulatory requirements.
- i) Permit modification list. The Agency must maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review.
- j) Combustion facility changes to meet federal 40 CFR 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested ~~pursuant to~~ Appendix A, paragraph ~~L.9L(9)~~ of this Part.
- 1) A facility owner or operator must have complied with the federal notification of intent to comply (NIC) requirements of 40 CFR 63.1210 that was in effect prior to October 11, 2000, (see subpart EEE of 40 CFR 63 (2000), incorporated by reference in 35 Ill. Adm. Code 720.111(b)) in order to request a permit modification ~~pursuant to~~ this Section for the purpose of technology changes needed to meet the standards of 40 CFR 63.1203, 63.1204, and 63.1205, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 2) If the Agency does not act to either approve or deny the request within 90 days of receiving it, the request must be deemed approved. The Agency may, at its discretion, extend this 90-day deadline one time for up to 30 days by notifying the facility owner or operator in writing before the 90 days has expired. A facility owner or operator must comply with the NIC requirements of 40 CFR 63.1210(b) and 63.1212(a) before a permit modification can be requested under this Section for the purpose of technology changes needed to meet the 40 CFR 63.1215, 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, and 63.1221 standards as added on October 12, 2005, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- k) Waiver of RCRA permit conditions in support of transition to the federal 40 CFR 63 MACT standards.
- 1) The facility owner or operator may request to have specific RCRA operating and emissions limits waived by submitting a Class 1 permit modification request under Appendix A of this Part, paragraph L.10. The

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owner or operator must provide the information described in subsections (k)(1)(A) through (k)(1)(C) of this Section, with Agency review subject to the conditions of subsection (k)(1)(D) of this Section:

- A) It must identify the specific RCRA permit operating and emissions limits the facility owner or operator is requesting to waive;
- B) It must provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the RCRA permit and MACT compliance; and
- C) It must discuss how the revised provisions will be sufficiently protective.
- D) The Agency must approve or deny the request within 30 days after receipt of the request. The Agency may, at its discretion, extend this 30-day deadline one time for up to 30 days by notifying the facility owner or operator in writing.

2) To request this modification in conjunction with MACT performance testing, where permit limits may only be waived during actual test events and pretesting, as defined under 40 CFR 63.1207(h)(2)(i) and (h)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Agency) the owner or operator must fulfill the conditions of subsection (k)(2)(A) of this Section, subject to the conditions of subsection (k)(2)(B) of this Section:

- A) It must submit its modification request to the Agency at the same time it submits its test plans to the Agency.
- B) The Agency may elect to approve or deny the request contingent upon approval of the test plans.

BOARD NOTE: Derived from 40 CFR 270.42(d) through (k) (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005)(j)-(2002).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

SUBPART H: REMEDIAL ACTION PLANS

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Section 703.301 General Information

- a) Definition of a RAP.
 - 1) A RAP is a special form of RCRA permit that an owner or operator may obtain, instead of a permit issued under 35 Ill. Adm. Code 702 and this Part, to authorize the owner or operator to treat, store, or dispose of hazardous remediation waste (as defined in 35 Ill. Adm. Code 720.110) at a remediation waste management site. A RAP may only be issued for the area of contamination where the remediation wastes to be managed under the RAP originated, or areas in close proximity to the contaminated area, except as allowed in limited circumstances under Section 703.306.
 - 2) The requirements in 35 Ill. Adm. Code 702 and this Part do not apply to RAPs unless those requirements for traditional RCRA permits are specifically required under this Subpart H. The definitions in 35 Ill. Adm. Code 702.110 apply to RAPs.
 - 3) Notwithstanding any other provision of 35 Ill. Adm. Code 702 or this Part, any document that meets the requirements in this Section constitutes a RCRA permit, as defined in 35 Ill. Adm. Code 702.110.
 - 4) A RAP may be either of the following:
 - A) A stand-alone document that includes only the information and conditions required by this Subpart H; or
 - B) A part (or parts) of another document that includes information or conditions for other activities at the remediation waste management site, in addition to the information and conditions required by this Subpart H.
 - 5) If an owner or operator is treating, storing, or disposing of hazardous remediation wastes as part of a cleanup compelled by authorities issued by USEPA or the State of Illinois, a RAP does not affect the obligations under those authorities in any way.
 - 6) If an owner or operator receives a RAP at a facility operating under interim status, the RAP does not terminate the facility's interim status.

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BOARD NOTE: Subsection (a) is derived from 40 CFR 270.80 (2002).

- b) When an owner or operator needs a RAP.
- 1) Whenever an owner or operator treats, stores, or disposes of hazardous remediation wastes in a manner that requires a RCRA permit under Section 703.121, an owner or operator must obtain either of the following:
 - A) A RCRA permit according to 35 Ill. Adm. Code 702 and this Part;
or
 - B) A RAP according to this Subpart H.
 - 2) Treatment units that use combustion of hazardous remediation wastes at a remediation waste management site are not eligible for RAPs under this Subpart H.
 - 3) An owner or operator may obtain a RAP for managing hazardous remediation waste at an already permitted RCRA facility. An owner or operator must have the RAP approved as a modification to the owner's or operator's existing permit according to the requirements of Sections 703.270 through 703.273 or Sections 703.280 through 703.283 instead of the requirements in this Subpart H. However, when an owner or operator submits an application for such a modification, the information requirements in Sections 703.281(a)(1), 703.282(a)(4), and 703.283(a)(4) do not apply. Instead, an owner or operator must submit the information required under Section 703.302(d). When the owner's or operator's RCRA permit is modified, the RAP becomes part of the RCRA permit. Therefore, when the owner's or operator's RCRA permit (including the RAP portion) is modified ~~or, revoked and~~ reissued, or terminated, or when it expires, the permit will be modified, according to the applicable requirements in Sections 703.270 through 703.273 or 703.280 through 703.283, it will be ~~revoked and~~ reissued, according to the applicable requirements in 35 Ill. Adm. Code 702.186 and Sections 703.270 through 703.273, or it will be terminated, according to the applicable requirements in 35 Ill. Adm. Code 702.186, or the permit will expire, according to the applicable requirements in 35 Ill. Adm. Code 702.125 and 702.161.
- BOARD NOTE: Subsection (b) is derived from 40 CFR 270.85 (2002).

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- c) The provisions of 35 Ill. Adm. Code 702.181 apply to RAPs.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.90 (2002). The corresponding federal provision includes an explanation that 40 CFR 270.4 provides that compliance with a permit constitutes compliance with RCRA. This is contrary to Illinois law, under which compliance with a permit does not constitute an absolute defense to a charge of violation of a substantive standard other than a failure to operate in accordance with the terms of a permit. See 35 Ill. Adm. Code 702.181(a) and accompanying Board Note.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.302 Applying for a RAP

- a) Applying for a RAP. To apply for a RAP, an owner or operator must complete an application, sign it, and submit it to the Agency according to the requirements in this Subpart H.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.95 ~~(2005)-(2002)~~.

- b) The person who must obtain a RAP. When a facility or remediation waste management site is owned by one person, but the treatment, storage, or disposal activities are operated by another person, it is the operator's duty to obtain a RAP, except that the owner must also sign the RAP application.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.100 ~~(2005)-(2002)~~.

- c) The person who must sign the application and any required reports for a RAP. Both the owner and the operator must sign the RAP application and any required reports according to 35 Ill. Adm. Code 702.126(a), (b), and (c). In the application, both the owner and the operator must also make the certification required ~~pursuant to under~~ 35 Ill. Adm. Code 702.126(d)(1). However, the owner may choose the alternative certification ~~pursuant to under~~ 35 Ill. Adm. Code 702.126(d)(2) if the operator certifies ~~pursuant to under~~ 35 Ill. Adm. Code 702.126(d)(1).

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.105 ~~(2005)-(2002)~~.

- d) What an owner or operator must include in its application for a RAP. An owner or operator must include the following information in its application for a RAP:

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- 1) The name, address, and USEPA identification number of the remediation waste management site;
- 2) The name, address, and telephone number of the owner and operator;
- 3) The latitude and longitude of the site;
- 4) The United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;
- 5) A scaled drawing of the remediation waste management site showing the following:
 - A) The remediation waste management site boundaries;
 - B) Any significant physical structures; and
 - C) The boundary of all areas on-site where remediation waste is to be treated, stored, or disposed of;
- 6) A specification of the hazardous remediation waste to be treated, stored, or disposed of at the facility or remediation waste management site. This must include information on the following:
 - A) Constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated or otherwise managed;
 - B) An estimate of the quantity of these wastes; and
 - C) A description of the processes an owner or operator will use to treat, store, or dispose of this waste, including technologies, handling systems, design, and operating parameters an owner or operator will use to treat hazardous remediation wastes before disposing of them according to the land disposal restrictions of 35 Ill. Adm. Code 728, as applicable;
- 7) Enough information to demonstrate that operations that follow the provisions in the owner's or operator's RAP application will ensure

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compliance with applicable requirements of 35 Ill. Adm. Code 724, 726, and 728;

- 8) Such information as may be necessary to enable the Agency to carry out its duties under other federal laws as is required for traditional RCRA permits pursuant to~~under~~ Section 703.183(t);
- 9) Any other information the Agency decides is necessary for demonstrating compliance with this Subpart H or for determining any additional RAP conditions that are necessary to adequately protect human health and the environment.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.110 ~~(2005)(2002)~~.

- e) If an owner or operator wants to keep this information confidential. 35 Ill. Adm. Code 120 allows an owner or operator to claim as confidential any or all of the information an owner or operator submits to the Agency pursuant to~~under~~ this Subpart H. An owner or operator must assert any such claim at the time that the owner or operator submits its RAP application or other submissions by stamping the words "trade secret" in red ink, as provided in 35 Ill. Adm. Code 120.305. If an owner or operator asserts a claim in compliance with 35 Ill. Adm. Code 120.201 at the time it submits the information, the Agency must treat the information according to the procedures in 35 Ill. Adm. Code 120. If an owner or operator does not assert a claim at the time it submits the information, the Agency must make the information available to the public without further notice to the owner or operator. The Agency must deny any requests for confidentiality of an owner's or operator's name or address.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.115 ~~(2005)(2002)~~.

- f) To whom the owner or operator must submit its RAP application. An owner or operator must submit its application for a RAP to the Agency for approval.

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.120 ~~(2005)(2002)~~.

- g) If an owner or operator submits its RAP application as part of another document, what the owner or operator must do. If an owner or operator submits its application for a RAP as a part of another document, an owner or operator must clearly identify the components of that document that constitute its RAP application.

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BOARD NOTE: Subsection (g) is derived from 40 CFR 270.125 ~~(2005)(2002)~~.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.303 Getting a RAP Approved

- a) The process for approving or denying an application for a RAP.
 - 1) If the Agency tentatively finds that an owner's or operator's RAP application includes all of the information required by Section 703.302(d) and that the proposed remediation waste management activities meet the regulatory standards, the Agency must make a tentative decision to approve the RAP application. The Agency must then prepare a draft RAP and provide an opportunity for public comment before making a final decision on the RAP application, according to this Subpart H.
 - 2) If the Agency tentatively finds that the owner's or operator's RAP application does not include all of the information required by Section 703.302(d) or that the proposed remediation waste management activities do not meet the regulatory standards, the Agency may request additional information from an owner or operator or ask an owner or operator to correct deficiencies in the owner's or operator's application. If an owner or operator fails or refuses to provide any additional information the Agency requests, or to correct any deficiencies in its RAP application, the Agency may either make a tentative decision to deny that owner's or operator's RAP application or to approve that application with certain changes, as allowed ~~pursuant to~~ Section 39 of the Act [415 ILCS 5/39]. After making this tentative decision, the Agency must prepare a notice of intent to deny the RAP application ("notice of intent to deny") or to approve that application with certain changes and provide an opportunity for public comment before making a final decision on the RAP application, according to the requirements in this Subpart H.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.130 ~~(2005)(2002)~~.

- b) What the Agency must include in a draft RAP. If the Agency prepares a draft RAP, the draft must include the following information:
 - 1) The information required ~~pursuant to~~ Section 703.302(d)(1) through

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(d)(6);

- 2) The following terms and conditions:
 - A) Terms and conditions necessary to ensure that the operating requirements specified in the RAP comply with applicable requirements of 35 Ill. Adm. Code 724, 726, and 728 (including any recordkeeping and reporting requirements). In satisfying this provision, the Agency may incorporate, expressly or by reference, applicable requirements of 35 Ill. Adm. Code 724, 726, and 728 into the RAP or establish site-specific conditions, as required or allowed by 35 Ill. Adm. Code 724, 726, and 728;
 - B) The terms and conditions in Subpart F of this Part;
 - C) The terms and conditions for modifying, ~~revoking and~~ reissuing, and terminating the RAP, as provided in Section 703.304(a); and
 - D) Any additional terms or conditions that the Agency determines are necessary to adequately protect human health and the environment, including any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP; and
- 3) If the draft RAP is part of another document, as described in Section 703.301(a)(4)(B), the Agency must clearly identify the components of that document that constitute the draft RAP.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.135 (2005)~~(2002)~~.

- c) What else the Agency must prepare in addition to the draft RAP or notice of intent to deny. Once the Agency has prepared the draft RAP or notice of intent to deny, it must then do the following:
 - 1) Prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for them, or the rationale for the notice of intent to deny;
 - 2) Compile an administrative record, including the following information:
 - A) The RAP application, and any supporting data furnished by the

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applicant;

- B) The draft RAP or notice of intent to deny;
 - C) The statement of basis and all documents cited therein (material readily available at the applicable Agency office or published material that is generally available need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis); and
 - D) Any other documents that support the decision to approve or deny the RAP; and
- 3) Make information contained in the administrative record available for review by the public upon request.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.140 ~~(2005)(2002)~~.

- d) The procedures for public comment on the draft RAP or notice of intent to deny.
 - 1) The Agency must publish notice of its intent as follows:
 - A) Send notice to an owner or operator of its intention to approve or deny the owner's or operator's RAP application, and send an owner or operator a copy of the statement of basis;
 - B) Publish a notice of its intention to approve or deny the owner's or operator's RAP application in a major local newspaper of general circulation;
 - C) Broadcast its intention to approve or deny the owner's or operator's RAP application over a local radio station; and
 - D) Send a notice of its intention to approve or deny the owner's or operator's RAP application to each unit of local government having jurisdiction over the area in which the owner's or operator's site is located, and to each State agency having any authority under State law with respect to any construction or operations at the site.
 - 2) The notice required by subsection (d)(1) of this Section must provide an

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opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least 45 days.

- 3) The notice required by subsection (d)(1) of this Section must include the following information:
 - A) The name and address of the Agency office processing the RAP application;
 - B) The name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;
 - C) A brief description of the activity the RAP will regulate;
 - D) The name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;
 - E) A brief description of the comment procedures in this Section, and any other procedures by which the public may participate in the RAP decision;
 - F) If a hearing is scheduled, the date, time, location, and purpose of the hearing;
 - G) If a hearing is not scheduled, a statement of procedures to request a hearing;
 - H) The location of the administrative record, and times when it will be open for public inspection; and
 - I) Any additional information that the Agency considers necessary or proper.
- 4) If, within the comment period, the Agency receives written notice of opposition to its intention to approve or deny the owner's or operator's RAP application and a request for a hearing, the Agency must hold an informal public hearing to discuss issues relating to the approval or denial

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of the owner's or operator's RAP application. The Agency may also determine on its own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the Agency must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in subsection (d)(1) of this Section. This notice must, at a minimum, include the information required by subsection (d)(3) of this Section and the following additional information:

- A) A reference to the date of any previous public notices relating to the RAP application;
- B) The date, time, and place of the hearing; and
- C) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.145 ~~(2005)(2002)~~.

- e) How the Agency must make a final decision on a RAP application.
 - 1) The Agency must consider and respond to any significant comments raised during the public comment period or during any hearing on the draft RAP or notice of intent to deny, and the Agency may revise the draft RAP based on those comments, as appropriate.
 - 2) If the Agency determines that the owner's or operator's RAP includes the information and terms and conditions required in subsection (b) of this Section, then it will issue a final decision approving the owner's or operator's RAP and, in writing, notify the owner or operator and all commenters on the owner's or operator's draft RAP that the RAP application has been approved.
 - 3) If the Agency determines that the owner's or operator's RAP does not include the information required in subsection (b) of this Section, then it will issue a final decision denying the RAP and, in writing, notify the owner or operator and all commenters on the owner's or operator's draft RAP that the RAP application has been denied.

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- 4) If the Agency's final decision is that the tentative decision to deny the RAP application was incorrect, it must withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this Subpart H.
- 5) When the Agency issues its final RAP decision, it must refer to the procedures for appealing the decision pursuant to~~under~~ subsection (f) of this Section.
- 6) Before issuing the final RAP decision, the Agency must compile an administrative record. Material readily available at the applicable Agency office or published materials that are generally available and which are included in the administrative record need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis or the response to comments. The administrative record for the final RAP must include information in the administrative record for the draft RAP (see subsection (c)(2) of this Section) and the following items:
 - A) All comments received during the public comment period;
 - B) Tapes or transcripts of any hearings;
 - C) Any written materials submitted at these hearings;
 - D) The responses to comments;
 - E) Any new material placed in the record since the draft RAP was issued;
 - F) Any other documents supporting the RAP; and
 - G) A copy of the final RAP.
- 7) The Agency must make information contained in the administrative record available for review by the public upon request.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.150 (2005)~~(2002)~~.

- f) Administrative appeal of a decision to approve or deny a RAP application.

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- 1) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing on the draft RAP, may appeal the Agency's decision to approve or deny the owner's or operator's RAP application to the Board ~~pursuant to~~ 35 Ill. Adm. Code 705.212. Any person that did not file comments, or did not participate in any public hearings on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions ~~pursuant to~~ 35 Ill. Adm. Code 705.201 (or a decision ~~pursuant to~~ Section 703.240 to deny a permit for the active life of a RCRA hazardous waste management facility or unit). Instead of the notice required ~~pursuant to~~ Subpart D of 35 Ill. Adm. Code 705 and 705.212(c), the Agency must give public notice of any grant of review of a RAP through the same means used to provide notice ~~pursuant to~~ subsection (d) of this Section. The notice will include the following information:
 - A) The public hearing and any briefing schedule for the appeal, as provided by the Board;
 - B) A statement that any interested person may participate in the public hearing or file public comments or an amicus brief with the Board; and
 - C) The information specified in subsection (d)(3) of this Section, as appropriate.
- 2) This appeal is a prerequisite to seeking judicial review of these Agency actions.

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.155 ~~(2005)(2002)~~.

- g) When a RAP becomes effective. A RAP becomes effective 35 days after the Agency notifies the owner or operator and all commenters that the RAP is approved, unless any of the following is true:
 - 1) The Agency specifies a later effective date in its decision;
 - 2) An owner or operator or another person has appealed the RAP ~~pursuant~~

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~~ounder~~ subsection (f) of this Section (if the RAP is appealed, and the request for review is granted ~~pursuant to~~ subsection (f), conditions of the RAP are stayed according to 35 Ill. Adm. Code 705.202 through 705.204); or

- 3) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.160 ~~(2005)(2002)~~. The corresponding federal provision provides that a RAP is effective 30 days after the Agency notice of approval. The Board has used 35 days to be consistent with the 35 days within which a permit appeal must be filed ~~pursuant to~~ Section 40(a)(1) of the Act [415 ILCS 5/40(a)(1)].

- h) When an owner or operator may begin physical construction of new units permitted under the RAP. An owner or operator must not begin physical construction of new units permitted under the RAP for treating, storing, or disposing of hazardous remediation waste before receiving a final, effective RAP.

BOARD NOTE: Subsection (h) is derived from 40 CFR 270.165 ~~(2005)(2002)~~.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.304 How a RAP May Be Modified, ~~Revoked and~~ Reissued, or Terminated

- a) After a RAP is issued, how it may be modified, ~~revoked and~~ reissued, or terminated. In a RAP, the Agency must specify, either directly or by reference, procedures for any future modification, ~~revocation and~~ reissuance, or termination of the RAP. These procedures must provide adequate opportunities for public review and comment on any modification, ~~revocation and~~ reissuance, or termination that would significantly change the owner's or operator's management of its remediation waste, or that otherwise merits public review and comment. If the RAP has been incorporated into a traditional RCRA permit, as allowed ~~pursuant to~~ Section 703.301(b)(3), then the RAP will be modified according to the applicable requirements in Sections 703.260 through 703.283, ~~revoked and~~ reissued according to the applicable requirements in 35 Ill. Adm. Code 702.186 and Sections 703.270 through 703.273, or terminated according to the applicable requirements of 35 Ill. Adm. Code 702.186.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.170 ~~(2005)(2002)~~.

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- b) Reasons for which the Agency may choose to modify a final RAP.
- 1) The Agency may modify the owner's or operator's final RAP on its own initiative only if one or more of the following reasons listed in this Section exist. If one or more of these reasons do not exist, then the Agency must not modify a final RAP, except at the request of the owner or operator. Reasons for modification are the following:
- A) The owner or operator made material and substantial alterations or additions to the activity that justify applying different conditions;
 - B) The Agency finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;
 - C) The standards or regulations on which the RAP was based have changed because of new or amended statutes, standards, or regulations or by judicial decision after the RAP was issued;
 - D) If the RAP includes any schedules of compliance, the Agency may find reasons to modify the owner's or operator's compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which an owner or operator has little or no control and for which there is no reasonably available remedy;
 - E) The owner or operator is not in compliance with conditions of its RAP;
 - F) The owner or operator failed in the application or during the RAP issuance process to disclose fully all relevant facts, or an owner or operator misrepresented any relevant facts at the time;
 - G) The Agency has determined that the activity authorized by the owner's or operator's RAP endangers human health or the environment and can only be remedied by modifying the RAP; or
 - H) The owner or operator has notified the Agency (as required in the RAP and ~~pursuant to~~ 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of a RAP.

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- 2) Notwithstanding any other provision in this Section, when the Agency reviews a RAP for a land disposal facility ~~pursuant to under~~ Section 703.304(f), it may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in 35 Ill. Adm. Code 702, 703, ~~705~~, and 720 through ~~727~~~~26~~.
- 3) The Agency must not reevaluate the suitability of the facility location at the time of RAP modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.175 ~~(2005)(2002)~~.

- c) Reasons for which the Agency may choose to revoke and reissue a final RAP.
 - 1) The Agency may ~~revoke and~~ reissue a final RAP on its own initiative only if one or more reasons for ~~revocation and~~ reissuance exist. If one or more reasons do not exist, then the Agency must not modify or ~~revoke and~~ reissue a final RAP, except at the owner's or operator's request. Reasons for modification or ~~revocation and~~ reissuance are the same as the reasons listed for RAP modifications in subsections (b)(1)(E) through (b)(1)(H) of this Section if the Agency determines that ~~revocation and~~ reissuance of the RAP is appropriate.
 - 2) The Agency must not reevaluate the suitability of the facility location at the time of RAP ~~revocation and~~ reissuance, unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.180 ~~(2005)(2002)~~.

- d) Reasons for which the Agency may choose to terminate a final RAP, or deny a renewal application. The Agency may terminate a final RAP on its own initiative or deny a renewal application for the same reasons as those listed for RAP modifications in subsections (b)(1)(E) through (b)(1)(G) of this Section if the Agency determines that termination of the RAP or denial of the RAP renewal application is appropriate.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.185 ~~(2005)(2002)~~.

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- e) Administrative appeal of an Agency decision to approve or deny a modification, reissuance, or termination of a RAP .
- 1) Any commenter on the modification, reissuance, or termination, or any person that participated in any hearing on these actions, may appeal the Agency's decision to approve a modification, reissuance, or termination of a RAP, according to Section 703.303(f). Any person that did not file comments or did not participate in any public hearing on the modification, reissuance, or termination may petition for administrative review only of the changes from the draft to the final RAP decision.
 - 2) Any commenter on the modification, reissuance, or termination, or any person that participated in any hearing on these actions, may appeal the Agency's decision to deny a request for modification, reissuance, or termination to the Board. Any person that did not file comments or who did not participate in any public hearing on the modification, reissuance, or termination may petition for administrative review only of the changes from the draft to the final RAP decision.
 - 3) The procedure for appeals of RAPs is as follows:
 - A) The person appealing the decision must send a petition to the Board pursuant to 35 Ill. Adm. Code 101 and 105. The petition must briefly set forth the relevant facts, state the defect or fault that serves as the basis for the appeal, and explain the basis for the petitioner's legal standing to pursue the appeal.
 - B) The Board has 120 days after receiving the petition to act on it.
 - C) If the Board does not take action on the petition within 120 days after receiving it, the appeal must be considered denied.

BOARD NOTE: Corresponding 40 CFR 270.190(c)(2) and (c)(3) (2002) allow 60 days for administrative review, which is too short a time for the Board to publish the appropriate notices, conduct public hearings, and conduct its review. Rather, the Board has borrowed the 120 days allowed as adequate time for Board review of permit appeals provided in Section 40(a)(2) of the Act [415 ILCS 5/40(a)(2)].

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- 4) This appeal is a prerequisite to seeking judicial review of the Agency action on the RAP.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.190 ~~(2005)(2002)~~. The corresponding federal provisions provide for informal appeal of an Agency RAP decision. There is no comparable informal procedure ~~pursuant to under~~ Sections 39 and 40 of the Act [415 ILCS 5/39 and 40].

- f) Expiration of a RAP. RAPs must be issued for a fixed term, not to exceed ten years, although they may be renewed upon approval by the Agency in fixed increments of no more than ten years. In addition, the Agency must review any RAP for hazardous waste land disposal five years after the date of issuance or reissuance and the owner or operator or the Agency must follow the requirements for modifying the RAP as necessary to assure that the owner or operator continues to comply with currently applicable requirements in the Act and federal RCRA sections 3004 and 3005 (42 USC 6904 and 6905).

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.195 ~~(2005)(2002)~~.

- g) How an owner or operator may renew a RAP that is expiring. If an owner or operator wishes to renew an expiring RAP, the owner or operator must follow the process for application for and issuance of RAPs in this Subpart H.

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.200 ~~(2005)(2002)~~.

- h) What happens if the owner or operator has applied correctly for a RAP renewal but has not received approval by the time its old RAP expires. If the owner or operator has submitted a timely and complete application for a RAP renewal, but the Agency, through no fault of the owner or operator, has not issued a new RAP with an effective date on or before the expiration date of the previous RAP, the previous RAP conditions continue in force until the effective date of the new RAP or RAP denial.

BOARD NOTE: Subsection (h) is derived from 40 CFR 270.205 ~~(2005)(2002)~~.

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

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

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

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

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

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

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

- C) Remove permit conditions. Under this option the following are required:
 - i) The owner or operator must document that the startup, shutdown, and malfunction plan required ~~pursuant to~~under 40 CFR 63.1206(c)(2) has been approved ~~pursuant to~~by the ~~Administrator under~~ 40 CFR 63.1206(c)(2)(ii)(B); and
 - ii) The Agency must remove permit conditions that are no longer applicable according to 35 Ill. Adm. Code 724.440(b) and 726.200(b).
- 2) Addressing permit conditions upon permit reissuance. The owner or operator of an incinerator, cement kiln, ~~or~~ lightweight aggregate kiln, ~~solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace~~ that has conducted a comprehensive performance test and submitted to the Agency a Notification of Compliance documenting compliance with the standards of subpart EEE of 40 CFR 63 (National Emission Standards for

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Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), may request in the application to reissue the permit for the combustion unit that the Agency control emissions from startup, shutdown, and malfunction events under any of the following options:

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

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

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

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- iii) The owner or operator must comply with subsection (a)(3) of this Section; ~~and-~~

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

- C) CAA option. Under this option the following are required:

- i) The owner or operator must document that the startup, shutdown, and malfunction plan required ~~pursuant to~~ under 40 CFR 63.1206(c)(2) has been approved ~~pursuant to by the Agency under~~ 40 CFR 63.1206(c)(2)(ii)(B); and
- ii) The Agency must omit from the permit conditions that are not applicable ~~pursuant to~~ under 35 Ill. Adm. Code 724.440(b) and 726.200(b).

- 3) Changes that may significantly increase emissions.

- A) The owner or operator must notify the Agency in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. The owner or operator must notify the Agency of such changes within five days of making such changes. The owner or operator must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

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B) The Agency may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents in either of the following ways:

- i) Upon permit renewal; or
- ii) If warranted, by modifying the permit ~~pursuant to~~ under Section 703.270 or 703.280 ~~through~~ through 703.283.

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

b) Interim status facilities.

1) Interim status operations. In compliance with 35 Ill. Adm. Code 725.440 and 726.200(b), the owner or operator of an incinerator, cement kiln, ~~or~~ lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of 35 Ill. Adm. Code 725 or 726 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance documenting compliance with the standards of subpart EEE of 40 CFR 63:

- A) RCRA option. Under this option, the owner or operator must continue to comply with the interim status emission standards and operating requirements of 35 Ill. Adm. Code 725 or 726 relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or
- B) CAA option. Under this option, the owner or operator is exempt from the interim status standards of 35 Ill. Adm. Code 725 or 726 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Agency that the startup, shutdown, and malfunction plan required ~~pursuant to~~ under 40 CFR

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63.1206(c)(2) has been approved ~~pursuant to by the Agency under~~ 40 CFR 63.1206(c)(2)(ii)(B).

- 2) Operations under a subsequent RCRA permit. When an owner or operator of an incinerator, cement kiln, ~~or~~ lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of 35 Ill. Adm. Code 725 or 726 submits a RCRA permit application, the owner or operator may request that the Agency control emissions from startup, shutdown, and malfunction events under any of the options provided by subsection (a)(2)(A), (a)(2)(B), or (a)(2)(C) of this Section.
- c) New units. A hazardous waste incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace unit that becomes subject to RCRA permit requirements after October 12, 2005 must control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options:
- 1) It may comply with the requirements specified in 40 CFR 63.1206(c)(2), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or
 - 2) It may request to include in the RCRA permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information, including the source's startup, shutdown, and malfunction plan and design. The Agency must specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

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

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

SUBPART J: RCRA STANDARDIZED PERMITS
FOR STORAGE AND TREATMENT UNITS

Section 703.350 General Information About RCRA Standardized Permits

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

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 270.250, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Eligibility for a RCRA standardized permit.

- 1) The facility owner or operator may be eligible for a RCRA standardized permit if the following conditions are fulfilled:

A) The facility generates hazardous waste and then stores or non-thermally treats the hazardous waste on-site in containers, tanks, or containment buildings; or

B) The facility receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and the facility stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings.

C) The Agency must inform the facility owner or operator of its eligibility for a RCRA standardized permit when the Agency makes a decision on its permit application.

- 2) This subsection (b)(2) corresponds with 40 CFR 270.255(b), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 270.255, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Permit requirements applicable to a RCRA standardized permit. The following provisions of this Part and 35 Ill. Adm. Code 702 apply to a RCRA standardized permit:

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- 1) General Information: All provisions derived from subpart A of 40 CFR 270 apply: Sections 703.121 through 703.124, 703.158 through 703.159, and 703.161(a) and 35 Ill. Adm. Code 702.110, 702.181, and 720.111.
- 2) Permit Application: All provisions derived from 40 CFR 270.10, 270.11, 270.12, 270.13, and 270.29 in subpart B of 40 CFR 270 apply: Sections 703.125, 703.126, 703.150 through 703.152, 703.157, 703.181, 703.186, 703.188, and 703.240 and 35 Ill. Adm. Code 702.103, 702.120 through 702.124, and 702.126.
- 3) Permit Conditions: All provisions derived from subpart C of 40 CFR 270 apply: Sections 703.241 through 703.248 and 35 Ill. Adm. Code 702.140 through 702.152, 702.160, and 702.160 through 702.164.
- 4) Changes to Permit: All provisions derived from 40 CFR 270.40, 270.41, and 270.43 in subpart D of 40 CFR 270 apply: Sections 703.260 and 703.270 through 703.273 and 35 Ill. Adm. Code 702.186.
- 5) Expiration and Continuation of Permits: All provisions derived from subpart E of 40 CFR 270 apply: 35 Ill. Adm. Code 703.125 and 703.161.
- 6) Special Forms of Permits: The provision derived from 40 CFR 270.67 in subpart F of 40 CFR 270 apply: Section 703.238.
- 7) Interim Status: All provisions derived from subpart G of 40 CFR 270 apply: Sections 703.153 through 703.157.
- 8) Remedial Action Plans: No provisions derived from subpart H of 40 CFR 270 apply: No provisions of Subpart H of 35 Ill. Adm. Code 703 apply.
- 9) RCRA Standardized Permits: All provisions derived from subpart J of 40 CFR 270 apply: this Subpart J.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 270.260, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.351 Applying for a RCRA Standardized Permit

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- a) Application procedure. The facility owner or operator may apply for a RCRA standardized permit by following the procedures in this Subpart J and Subpart G of 35 Ill. Adm. Code 705.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 270.270, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Information submitted to the Agency to support an application for a RCRA standardized permit. The information in subsections (b)(1) through (b)(10) of this Section will be the basis of an application for a RCRA standardized permit. The facility owner or operator must submit the following information to the Agency when it submits its Notice of Intent pursuant to 35 Ill. Adm. Code 705.301(a)(2) requesting coverage under a RCRA standardized permit:

- 1) The Part A information described in Section 703.181;
- 2) A meeting summary and other materials required by 35 Ill. Adm. Code 703.191;
- 3) Documentation of compliance with the location standards of 35 Ill. Adm. Code 727.110(i) and Sections 703.183(k) and 703.184;
- 4) This subsection (b)(4) corresponds with 40 CFR 270.275(d), which pertains to submission of information to USEPA relating to implementation of various federal laws (such as the Wild and Scenic Rivers Act (16 USC 1273 et seq.), the National Historic Preservation Act of 1966 (16 USC 470 et seq.), the Endangered Species Act (16 USC 1531 et seq.), the Coastal Zone Management Act (16 USC 1451 et seq.), the Fish and Wildlife Coordination Act (16 USC 661 et seq.), and executive orders). The provision is not necessary in Illinois because the Agency does not implement the cited federal laws. This statement maintains structural consistency with the corresponding federal rules;
- 5) Solid waste management unit information required by Section 703.187;
- 6) A certification meeting the requirements of subsection (c) of this Section, and an audit of the facility's compliance status with 35 Ill. Adm. Code 727, as required by subsection (c) of this Section;
- 7) A closure plan prepared in accordance with 35 Ill. Adm. Code 727.210;

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- 8) The most recent closure cost estimate for the facility prepared pursuant to 35 Ill. Adm. Code 727.240(c) and a copy of the documentation required to demonstrate financial assurance pursuant to 35 Ill. Adm. Code 727.240(d). For a new facility, the owner or operator may gather the required documentation 60 days before the initial receipt of hazardous wastes;
- 9) If the owner or operator manages wastes generated offsite, the waste analysis plan; and
- 10) If the owner or operator manages waste generated from off-site, documentation showing that the waste generator and the off-site facility are under the same ownership.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 270.275, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Certification requirements. The facility owner or operator must submit a signed certification based on an audit of its facility's compliance with 35 Ill. Adm. Code 727.

- 1) The owner's or operator's certification must read as follows:

I certify under penalty of law that:

1. I have personally examined and am familiar with the report containing the results of an audit conducted of my facility's compliance status with 35 Ill. Adm. Code 727, which supports this certification. Based on my inquiry of those individuals immediately responsible for conducting the audit and preparing the report, I believe that my (include here the language of the applicable of the following two paragraphs):

existing facility complies with all applicable requirements of 35 Ill. Adm. Code 727 and will continue to comply until the expiration of the permit;

facility has been designed, and will be constructed and operated to comply with all applicable requirements of 35

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Ill. Adm. Code 727, and will continue to comply until expiration of the permit;

2. I will make all information that I am required to maintain at my facility by 35 Ill. Adm. Code 703.352 readily available for review by the permitting agency and the public; and
 3. I will continue to make all information required by 35 Ill. Adm. Code 703.352 available until the permit expires. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation.
- 2) The owner or operator must sign the certification of subsection (c)(1) of this Section following the requirements of 35 Ill. Adm. Code 702.126(a)(1) through (a)(3).
 - 3) The certification must be based upon an audit that the owner or operator conducted of its facility's compliance status with 35 Ill. Adm. Code 727. A written audit report, signed and certified as accurate by the auditor, must be submitted to the Agency with the 35 Ill. Adm. Code 705.301(a)(2) (Notice of Intent).

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 270.280, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.352 Information That Must Be Kept at the Facility

- a) General types of information to be maintained at the facility. The facility owner or operator must keep the following information at its facility:
 - 1) A general description of the facility;
 - 2) Results of chemical and physical analyses of the hazardous waste and hazardous debris handled at the facility. At a minimum, these results of analyses must contain all the information that the owner or operator must know to treat or store the wastes properly pursuant to 35 Ill. Adm. Code 727;

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

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

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- 18) Where appropriate, proof of coverage by a State financial mechanism, as required by 35 Ill. Adm. Code 727.240(j) or 727.240(k);
- 19) A topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). The map must show elevation contours. The contour interval must show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). If the facility is in a mountainous area, the owner or operator should use large contour intervals to adequately show topographic profiles of the facility. The map must clearly show each of the following:
- A) The map scale and date;
 - B) Any 100-year flood plain area;
 - C) All surface waters including intermittent streams;
 - D) The surrounding land uses (residential, commercial, agricultural, recreational, etc.);
 - E) A wind rose (i.e., prevailing windspeed and direction);
 - F) The orientation of the map (north arrow);
 - G) Legal boundaries of the facility site;
 - H) Facility access control (fences, gates);
 - I) All injection and withdrawal wells both on-site and off-site;
 - J) All buildings; treatment, storage, or disposal operations; and other structures (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
 - K) Barriers for drainage or flood control; and

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- L) The location of operational units within the facility where hazardous waste is (or will be) treated or stored (including equipment cleanup areas).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 270.290, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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

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- 3) Sketches, drawings, or data demonstrating compliance with 35 Ill. Adm. Code 727.270(e) (location of buffer zone (15m or 50ft) and containers holding ignitable or reactive wastes) and 35 Ill. Adm. Code 727.270(f)(3) (location of incompatible wastes in relation to each other), where applicable;
- 4) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 35 Ill. Adm. Code 727.270(f)(1) and (f)(2), and 35 Ill. Adm. Code 727.110(h)(2) and (h)(3); and
- 5) Information on air emission control equipment as required by Section 703.352(e).

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 270.300, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Tank information to be maintained at the facility. If the facility owner or operator uses tanks to store or treat hazardous waste, it must keep the following information at its facility:
 - 1) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer on the structural integrity and suitability for handling hazardous waste of each tank system, as required pursuant to 35 Ill. Adm. Code 727.290(b) and (c);
 - 2) The dimensions and capacity of each tank;
 - 3) A description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);
 - 4) A diagram of piping, instrumentation, and process flow for each tank system;
 - 5) A description of materials and equipment used to provide external corrosion protection, as required pursuant to 35 Ill. Adm. Code 727.290(b);
 - 6) For new tank systems, a detailed description of how the tank systems will be installed in compliance with 35 Ill. Adm. Code 727.290(c) and (e);

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- 7) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of 35 Ill. Adm. Code 727.290(f) and (g);
- 8) This subsection (c)(8) corresponds with 40 CFR 270.305(h), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules;
- 9) A description of controls and practices to prevent spills and overflows, as required pursuant to 35 Ill. Adm. Code 727.290(i);
- 10) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with 35 Ill. Adm. Code 727.290(m) and (n); and
- 11) Information on air emission control equipment, as required by Section 703.352(e).

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 270.305, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Equipment information to be maintained at the facility. If the facility has equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies, the facility owner or operator must keep the following information at its facility:
 - 1) For each piece of equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies, the following:
 - A) The equipment identification number and hazardous waste management unit identification;
 - B) The approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);
 - C) The type of equipment (e.g., a pump or a pipeline valve);
 - D) The percent by weight of total organics in the hazardous waste stream at the equipment;

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- E) The phase of the hazardous waste at the equipment (e.g., gas or vapor or liquid); and
- F) The method of compliance with the standard (e.g., monthly leak detection and repair, or equipped with dual mechanical seals);
- 2) For a facility that cannot install a closed-vent system and control device to comply with Subpart BB of 35 Ill. Adm. Code 724 on the effective date that the facility becomes subject to the Subpart BB provisions, an implementation schedule as specified in 35 Ill. Adm. Code 724.933(a)(2);
- 3) Documentation that demonstrates compliance with the equipment standards in 35 Ill. Adm. Code 724.952 and 724.959. This documentation must contain the records required pursuant to 35 Ill. Adm. Code 724.964; and
- 4) Documentation to demonstrate compliance with 35 Ill. Adm. Code 724.960, which must include the following information:

 - A) A list of all information references and sources used in preparing the documentation;
 - B) Records, including the dates, of each compliance test required by 35 Ill. Adm. Code 724.933(j);
 - C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," USEPA publication number EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a) or other engineering texts acceptable to the Agency that present basic control device design information. The design analysis must address the vent stream characteristics and control device operation parameters, as specified in 35 Ill. Adm. Code 724.935(b)(4)(iii);
 - D) A statement signed and dated by the facility owner or operator that certifies that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous

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waste management unit is operating at the highest load or capacity level reasonable expected to occur; and

- E) A statement signed and dated by the facility owner or operator that certifies that the control device is designed to operate at an efficiency of 95 weight percent or greater.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 270.310, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- e) Air emissions control information to be maintained at the facility. If the facility owner or operator has air emission control equipment subject to Subpart CC of 35 Ill. Adm. Code 724, it must keep the following information at its facility:
- 1) Documentation for each floating roof cover installed on a tank subject to 35 Ill. Adm. Code 724.984(d)(1) or (d)(2) that includes information that the owner or operator prepared or the cover manufacturer or vendor provided describing the cover design, and the owner's or operator's certification that the cover meets applicable design specifications listed in 35 Ill. Adm. Code 724.984(e)(1) or (f)(1);
 - 2) Identification of each container area subject to Subpart CC of 35 Ill. Adm. Code 724 and the owner's or operator's certification that the requirements of this Subpart J are met;
 - 3) Documentation for each enclosure used to control air pollutant emissions from tanks or containers pursuant to requirements of 35 Ill. Adm. Code 724.984(d)(5) or 724.986(e)(1)(B). The owner or operator must include records for the most recent set of calculations and measurements that it performed to verify that the enclosure meets the criteria of a permanent total enclosure as specified in appendix B to 40 CFR 52.741 (Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure), incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 4) This subsection (e)(4) corresponds with 40 CFR 270.315(d), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules;

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- 5) Documentation for each closed-vent system and control device installed pursuant to 35 Ill. Adm. Code 724.987 that includes design and performance information, as specified in Section 703.210(c) and (d); and
- 6) An emission monitoring plan for both Method 21 in appendix A to 40 CFR 60 (Determination of Volatile Organic Compound Leaks), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and control device monitoring methods. This plan must include the following information: monitoring points, monitoring methods for control devices, monitoring frequency, procedures for documenting exceedences, and procedures for mitigating noncompliances.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 270.315, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 487, effective December 20, 2006)

Section 703.353 Modifying a RCRA Standardized Permit

A facility owner or operator can modify its RCRA standardized permit by following the procedures found in 35 Ill. Adm. Code 705.304.

BOARD NOTE: Derived from 40 CFR 270.320, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 487, effective December 20, 2006)

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Section 703.APPENDIX A Classification of Permit Modifications

Class Modifications

A. General Permit Provisions

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

B. General Facility Standards

1. Changes to waste sampling or analysis methods:

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- 1 a. To conform with Agency guidance or Board regulations.
- 1* b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.
- 1* c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.
- 2 d. Other changes.
2. Changes to analytical quality assurance or quality control plan:
 - 1 a. To conform with agency guidance or regulations.
 - 2 b. Other changes.
- 1 3. Changes in procedures for maintaining the operating record.
- 2 4. Changes in frequency or content of inspection schedules.
5. Changes in the training plan:
 - 2 a. That affect the type or decrease the amount of training given to employees.
 - 1 b. Other changes.
6. Contingency plan:
 - 2 a. Changes in emergency procedures (i.e., spill or release response procedures).
 - 1 b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.
 - 2 c. Removal of equipment from emergency equipment list.
 - 1 d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.

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

7. CQA plan:

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

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

C. Groundwater Protection

1. Changes to wells:
 - 2 a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring system.
 - 1 b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.
- 1* 2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the Agency.
- 1* 3. Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred, with prior approval of the Agency.
- 2* 4. Changes in point of compliance.

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

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

E. Post-Closure

- 1 1. Changes in name, address, or phone number of contact in post-closure

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plan.

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

F. Containers

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

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3. Storage of different wastes in containers, except as provided in F(4):

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

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

4. Storage or treatment of different wastes in containers:

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

G. Tanks

1. Modification of a tank unit, secondary containment system, or treatment process that increases tank capacity, adds a new tank, or alters treatment, specified as follows:

- 3 a. Modification or addition of tank units resulting in greater than 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(c), G(1)(d), and G(1)(e).
- 2 b. Modification or addition of tank units resulting in up to 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(d) and G(1)(e).

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

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

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

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

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

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

H. Surface Impoundments

- 3 1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.
- 3 2. Replacement of a surface impoundment unit.
- 2 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system.
- 2 4. Modification of a surface impoundment management practice.

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

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- 2 c. Other changes.

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

- I. Enclosed Waste Piles. For all waste piles, except those complying with 35 Ill. Adm. Code 724.350(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with 35 Ill. Adm. Code 724.350(c).
1. Modification or addition of waste pile units:
 - 3 a. Resulting in greater than 25 percent increase in the facility's waste pile storage or treatment capacity.
 - 2 b. Resulting in up to 25 percent increase in the facility's waste pile storage or treatment capacity.
 - 2 2. Modification of waste pile unit without increasing the capacity of the unit.
 - 1 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.
 - 2 4. Modification of a waste pile management practice.
 5. Storage or treatment of different wastes in waste piles:
 - 3 a. That require additional or different management practices or different design of the unit.
 - 2 b. That do not require additional or different management practices or different design of the unit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
 - 2 6. Conversion of an enclosed waste pile to a containment building unit.

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

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

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the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

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

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

K. Land Treatment

- 3 1. Lateral expansion of or other modification of a land treatment unit to increase area extent.
- 2 2. Modification of runoff control system.
- 3 3. Modify runoff control system.
- 2 4. Other modification of land treatment unit component specifications or standards required in permit.
5. Management of different wastes in land treatment units:
- 3 a. That require a change in permit operating conditions or unit design specifications.
- 2 b. That do not require a change in permit operating conditions or unit design specifications.

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

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

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- 1* 15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Agency's prior approval has been received.
- 1* 16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Agency.
- 3 17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.
- 2 18. Changes in vegetative cover requirements for closure.

L. Incinerators, Boilers and Industrial Furnaces

- 3 1. Changes to increase by more than 25 percent any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.
- 2 2. Changes to increase by up to 25 percent any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.
- 3 3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units; by adding a primary or secondary combustion unit;

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by substantially changing the design of any component used to remove HC1/C1₂, metals, or particulate from the combustion gases; or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

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

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specified in the permit, the Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

- 2 b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.

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

7. Shakedown and trial burn:

- 2 a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period or the period immediately following the trial burn.
- 1* b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Agency.
- 1* c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Agency.
- 1* d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Agency.
- 1 8. Substitution of an alternative type of non-hazardous waste fuel that is not specified in the permit.
- 1* 9. Technology changes needed to meet standards under federal subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), provided the procedures of

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Section 703.280(j) are followed.

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

M. Containment Buildings

1. Modification or addition of containment building units:
 - 3 a. Resulting in greater than 25 percent increase in the facility's containment building storage or treatment capacity.
 - 2 b. Resulting in up to 25 percent increase in the facility's containment building storage or treatment capacity.
- 2 2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit.
- 3 3. Replacement of a containment building with a containment building that meets the same design standards provided:
 - 1 a. The unit capacity is not increased.
 - 1 b. The replacement containment building meets the same conditions in the permit.
- 2 4. Modification of a containment building management practice.
- 5 5. Storage or treatment of different wastes in containment buildings:
 - 3 a. That require additional or different management practices.
 - 2 b. That do not require additional or different management practices.

N. Corrective Action

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

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Adm. Code 724.652.

- 2 2. Approval of a temporary unit or time extension pursuant to 35 Ill. Adm. Code 724.653.

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

Note: * indicates modifications requiring prior Agency approval.

BOARD NOTE: Derived from appendix I to 40 CFR 270.42 (2005).

(Source: Amended at 31 Ill. Reg. 487, effective December 20, 2006)

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
704.101	Amend
704.102	Amend
704.103	Amend
704.104	Amend
704.105	Amend
704.106	Amend
704.107	Amend
704.108	New Section
704.121	Amend
704.122	Amend
704.123	Amend
704.124	Amend
704.141	Amend
704.142	Amend
704.143	Amend
704.144	Amend
704.145	Amend
704.146	Amend
704.147	Amend
704.148	Amend
704.149	Amend
704.150	Amend
704.151	Amend
704.161	Amend
704.162	Amend
704.163	Amend
704.181	Amend
704.182	Amend
704.183	Amend
704.184	Amend
704.185	Amend
704.186	Amend
704.187	Amend
704.188	Amend
704.189	Amend

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704.190	Amend
704.191	Amend
704.192	Amend
704.193	Amend
704.194	Amend
704.201	Amend
704.202	Amend
704.203	Amend
704.210	Amend
704.211	Amend
704.212	Amend
704.213	Amend
704.214	Amend
704.215	Amend
704.216	Amend
704.217	Amend
704.218	Amend
704.219	Amend
704.220	Amend
704.221	Amend
704.222	Amend
704.230	Amend
704.240	Amend
704.260	Amend
704.261	Amend
704.262	Amend
704.263	Amend
704.264	Amend
704.279	Amend
704.280	Amend
704.281	Amend
704.282	Amend
704.283	Amend
704.284	Amend
704.285	Amend
704.286	Amend
704.287	Amend
704.288	Amend
704.289	Amend

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- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The amendments include references to incorporations by reference that are amended in this proceeding. Two amendments relating to Part 704 replace the incorporation of a federal regulation by reference with a citation to the corresponding Illinois regulations. Two others relating to Part 704 add the incorporation of a previously required federal form by reference. Other amendments to the incorporations relating to Part 704, however, are all corrective or stylistic, and do not change the incorporations in any substantive way.
- 8) Statement of Availability: The adopted rulemakings, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 6839; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to the rulemaking? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does

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not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 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 this rulemaking: The amendments to Part 704 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 704 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations. This rulemaking includes a number of corrective and stylistic amendments to the base text of Part 704 that are not directly derived from the current federal amendments.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

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- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITSPART 704
UIC PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: PROHIBITIONS

Section	Content
704.121	Prohibition Against Unauthorized Injection
704.122	Prohibition Against Movement of Fluid into USDW
704.123	Identification of USDWs USDW and Exempted Aquifers
704.124	Prohibition Against Class IV Injection Wells

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY RULE

Section	Content
704.141	Existing Class I and III Injection Wells
704.142	Prohibitions Against Injection into Wells Authorized by Rule
704.143	Expiration of Authorization
704.144	Requirements
704.145	Existing Class IV Injection Wells
704.146	Class V Injection Wells
704.147	Requiring a Permit
704.148	Inventory Requirements
704.149	Requiring other Information

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- 704.150 Requirements for Class I and III [Injection](#) Wells ~~Authorized~~authorized by Rule
704.151 RCRA Interim Status for Class I [Injection](#) Wells

SUBPART D: APPLICATION FOR PERMIT

Section

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

SUBPART E: PERMIT CONDITIONS

Section

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

SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE

Section

- 704.201 Applicability
704.202 Authorization
704.203 Requirements

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

Section

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704.210	Applicability
704.211	Definitions
704.212	Cost Estimate for Plugging and Abandonment
704.213	Financial Assurance for Plugging and Abandonment
704.214	Trust Fund
704.215	Surety Bond Guaranteeing Payment
704.216	Surety Bond Guaranteeing Performance
704.217	Letter of Credit
704.218	Plugging and Abandonment Insurance
704.219	Financial Test and Corporate Guarantee
704.220	Multiple Financial Mechanisms
704.221	Financial Mechanism for Multiple Facilities
704.222	Release of the Owner or Operator
704.230	Incapacity
704.240	Wording of the Instruments

SUBPART H: ISSUED PERMITS

Section	
704.260	Transfer
704.261	Modification
704.262	Causes for Modification
704.263	Well Siting
704.264	Minor Modifications

SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

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

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

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

SUBPART A: GENERAL PROVISIONS

Section 704.101 Content

The regulations in this Subpart A set forth the specific requirements for the UIC (Underground Injection Control) permit program. These rules are intended to implement the UIC permit requirement of Section 12(g) of the Environmental Protection Act (Act) [\[415 ILCS 5/12\(g\)\]](#). These rules are intended to be identical in substance to United States Environmental Protection Agency (USEPA) rules found in 40 CFR 144-~~(1987)~~. The regulations in this Subpart are supplemental to the requirements in 35 Ill. Adm. Code 702, which contains requirements for both the RCRA and UIC permit programs. Operating requirements for injection wells are included in 35 Ill. Adm. Code 730.

BOARD NOTE: [Derived from](#)~~(Board Note: See~~ 40 CFR 144.1 ~~(2005)(1987).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.102 Scope of the Permit or Rule Requirement

Although five classes of wells are set forth in Section 704.106, the UIC (Underground Injection Control) permit program described in 35 Ill. Adm. Code 702, 704, 705, and 730 regulates underground injection for only four classes of wells (see definition of "well injection," 35 Ill. Adm. Code 702.110). Class II wells (Section 704.106(b)) are not subject to the requirements found in 35 Ill. Adm. Code 702, 704, 705, and 730. The UIC permit program for Class II wells is regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, Oil and Gas Division, pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm.

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Code 240). ~~The owner~~All-owners or ~~operator~~operators of a Class I, Class III, Class IV, or Class V injection ~~well~~wells must be authorized either by permit or rule. In carrying out the mandate of the SDWA, this Part provides that no injection ~~may~~must be authorized by permit or rule if it results in movement of fluid containing any contaminant into underground sources of drinking water (USDWs) (Section 704.122) if the presence of that contaminant may cause a violation of any primary drinking water regulation under ~~35 Ill. Adm. Code 61140-CFR-142~~ or may adversely affect the health of persons (Section 704.122). Section 704.124 prohibits the construction, operation, or maintenance of a Class IV injection well. A Class V injection well ~~is~~wells are regulated under Subpart I of this Part. If remedial action appears necessary ~~for~~aprior ~~to the establishment of regulations directly applicable to a specific type of~~ Class V injection well, an individual permit may be required (Subpart C of this Part) or the Agency must require remedial action or closure by order (see Section 704.122(c)).

BOARD NOTE: Derived from 40 CFR 144.1(g) preamble ~~(2005)~~(2000).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.103 Identification of Aquifers

During UIC program development, the Agency may identify aquifers and portions of aquifers ~~that~~which are actual or potential sources of drinking water. This identification will provide an aid to the Agency in carrying out its duty to protect all USDWs. An aquifer is a USDW if it fits the definition, even if it has not been "identified by the Agency."

BOARD NOTE: See 35 Ill. Adm. Code 702.106. Derived from 40 CFR 144.1(g) ~~(2005)~~(1993).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.104 Exempted Aquifers

The Board may designate "exempted aquifers" using criteria in 35 Ill. Adm. Code 730. Such an aquifer is one~~aquifers are those~~ that would otherwise qualify as a USDW~~"underground sources of drinking water"~~ to be protected, but which has~~have~~ no real potential to be used as a source of drinking water~~sources~~. Therefore they are not USDWs. No aquifer is an "exempted aquifer" until it has been affirmatively designated under the procedures in Section 704.123. An aquifer~~Aquifers~~ that does~~do~~ not fit the definition of a USDW~~is "underground sources of drinking water"~~ are not an "exempted aquifer~~aquifers~~." It is~~They are~~ simply not subject to the special protection afforded a USDW~~USDWs~~.

BOARD NOTE: See 35 Ill. Adm. Code 702.105. Derived from 40 CFR 144.1(g) ~~(2005)~~(1993).

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.105 Specific Inclusions and Exclusions

- a) The following wells are included among those types of injection activities that are covered by the UIC regulations. (This list is not intended to be exclusive but is for clarification only.)
- 1) Any injection well located on a drilling platform inside territorial waters of the State of Illinois;
 - 2) Any dug hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids;
 - 3) Any well used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste. This includes the disposal of hazardous waste into what would otherwise be a septic ~~system or cesspool~~systems and cesspools, regardless of ~~its~~their capacity;
 - 4) Any septic tank, cesspool, or other well used by a multiple dwelling, community, or regional system for the injection of wastes.
- b) The following are not covered by this Part:
- 1) ~~An injection well~~Injection wells located on a drilling platform or other site that is beyond the territorial waters of the State of Illinois;
 - 2) ~~An individual~~Individual or single family residential waste disposal ~~system,~~systems such as a domestic ~~cesspool~~cesspools or septic ~~systems~~systems;
 - 3) ~~A nonresidential cesspool,~~Nonresidential cesspools, septic ~~system,~~systems or similar waste disposal ~~systems~~systems if such ~~system is~~systems are used solely for the disposal of sanitary waste, and ~~has~~have the capacity to serve fewer than 20 persons a day;
 - 4) ~~An injection well~~Injection wells used for injection of hydrocarbons that are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage;

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- 5) Any dug hole, drilled hole, or bored shaft that is not used for the subsurface emplacement of fluids;
- 6) A Class II injection wells.
- c) The prohibition applicable to a Class IV injection wells under Section 704.124 does not apply to injections of hazardous wastes into an aquifers or portion of an aquifers thereof that has been exempted pursuant to 35 Ill. Adm. Code 730.104.

BOARD NOTE: Derived from 40 CFR 144.1(g)(1) through (g)(3) (2005)-(1999), as amended at 64 Fed. Reg. 68565 (December 7, 1999).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.106 Classification of Injection Wells

Injection wells are classified as follows:

- a) Class I injection wells. Any of the following is a Class I injection well:
 - 1) A well used by a generators of hazardous wastes or the owners or operators of a hazardous waste management facilitys to inject hazardous waste beneath the lowermost formation containing a USDW within 402 meters (one-quarter mile) of the well bore, ~~within 402 meters (one-quarter mile) of the well bore, an underground source of drinking water.~~
 - 2) Any other industrial and municipal disposal well that injects fluids beneath the lowermost formation containing a USDW within 402 meters (one-quarter mile) of the well bore, ~~within 402 meters (one-quarter mile) of the well bore, an underground source of drinking water.~~
 - 3) A radioactive waste disposal wells that injects fluids below the lowermost formation containing a USDW ~~an underground source of drinking water~~ within 402 meters (one quarter-mile) of the well bore.

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

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hazardous waste management ~~facility, facilities,~~ or by ~~the owner or operator~~ owners and operators of ~~a~~ radioactive waste disposal ~~sites~~ sites to dispose of hazardous waste or radioactive waste above a formation ~~that which within 402 meters (one-quarter mile) of the well~~ contains ~~a USDW within 402 meters (one-quarter mile) of the well~~ an underground source of drinking water.

- 3) ~~A well~~ Wells used by ~~a generator~~ generators of hazardous waste or ~~the owner or operator~~ owners and operators of ~~a~~ hazardous waste management ~~facility~~ facilities to dispose of hazardous waste ~~that, which~~ cannot be classified under ~~any of~~ subsections (a)(1), ~~or~~ (d)(1), ~~and~~ (d)(2) ~~of this Section~~ (e.g., ~~a well that is~~ wells used to dispose of hazardous waste into or above a formation ~~that which~~ contains an aquifer ~~that which~~ has been exempted pursuant to 35 Ill. Adm. Code 730.104).

- e) Class V injection wells. ~~Any injection well that is~~ Injection wells not classified as a Class ~~included in Classes~~ I, II, III, or IV injection well.

BOARD NOTE: Derived from 40 CFR 144.6 ~~(2005)~~ (1999).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.107 Definitions

The definitions of 35 Ill. Adm. Code 702 apply to this Part ~~704~~. Specific types of Class V injection wells are described in Section 704.281.

BOARD NOTE: Derived from 40 CFR 144.3 (2005).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.108 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3 and 145.11(a)(33), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 605, effective December 20, 2006)

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SUBPART B: PROHIBITIONS

Section 704.121 Prohibition Against Unauthorized Injection

Any underground injection, except into a well authorized by permit or rule issued pursua nt ~~to under~~ this Part ~~part~~ and 35 Ill. Adm. Code 705, ~~as applicable~~, is prohibited. The construction of any well required to have a permit under this Part is prohibited until the permit has been issued.

BOARD NOTE: Derived from 40 CFR 144.11 (~~2005~~)(1993), ~~as amended at 58 Fed. Reg. 63895 (Dec. 3, 1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.122 Prohibition Against Movement of Fluid into USDW

- a) No owner or operator may shall construct, operate, maintain, convert, plug, abandon or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into a USDW ~~underground sources of drinking water~~, if the presence of that contaminant could may cause a violation of any national primary drinking water regulation under 35 Ill. Adm. Code 611 (derived from 40 CFR 141)142, incorporated by reference in 35 Ill. Adm. Code 702.104, or could may otherwise adversely affect the health of persons. The applicant for a permit has shall have the burden of showing that the requirement of this subsection (a) is ~~paragraph are~~ met.
- b) For a Class I ~~or~~ and III injection well ~~wells~~, if any water quality monitoring of a USDW ~~an underground source of drinking water~~ indicates the movement of any contaminant into the USDW, ~~underground source of drinking water~~ except as authorized under 35 Ill. Adm. Code 730, the Agency must shall prescribe such additional requirements for construction, corrective action, operation, monitoring or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of a well ~~wells~~ authorized by permit, these additional requirements must shall be imposed by modifying the permit in accordance with 35 Ill. Adm. Code 702.183 through 702.185 ~~or the permit may be subject to revocation under 35 Ill. Adm. Code 702.186 if cause exists~~, or appropriate enforcement action may be taken if the permit has been violated, and the permit may be subject to revocation under 35 Ill. Adm. Code 702.186 if cause exists. In the case of wells authorized by rule, see Section 704.141 through 704.146.

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- c) For a Class V injection well~~wells~~, if at any time the Agency learns that a Class V injection well ~~could~~may cause a violation of any national primary drinking water regulation~~regulations~~ under 35 Ill. Adm. Code 611 (derived from 40 CFR 141.142, incorporated by reference in 35 Ill. Adm. Code 702.104), it must ~~undertake one of the following actions~~shall:
- 1) It must require~~Require~~ the injector to obtain an individual permit;
 - 2) It must issue~~Issue~~ a permit that~~which~~ requires the injector to take such actions (including, where necessary, ~~required~~ closure of the injection well) as may be necessary to prevent the violation; or
 - 3) It may initiate~~Take~~ enforcement action.
- d) Whenever the Agency learns that a Class V injection well may be otherwise adversely affecting the health of persons, it may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under subsection (c) of this Section.
- e) Notwithstanding any other provision of this Section, the Agency may take emergency action upon receipt of information that a contaminant that~~which~~ is present in or is likely to enter a public water system or a USDW~~underground source of drinking water~~ may present an imminent and substantial endangerment to the health of persons. The Agency may declare an emergency and affix a seal pursuant to Section 34 of the Act [415 ILCS 5/34].

BOARD NOTE: Derived from~~(BOARD NOTE: See 40 CFR 144.12 (2005)(1987).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.123 Identification of USDWs~~USDW~~ and Exempted Aquifers

- a) The Agency may identify (by narrative description, illustrations, maps, or other means) and must~~shall~~ protect, except where exempted under subsection (b) of this Section~~below~~, as a USDW~~an underground source of drinking water~~, any aquifer~~all aquifers~~ or part~~parts~~ of an aquifer~~aquifers~~ that meets~~meet~~ the definition of a USDW~~an "underground source of drinking water"~~ in 35 Ill. Adm. Code 702.110. Even if an aquifer has not been specifically identified by the Agency, it is a USDW~~an underground source of drinking water~~ if it meets the definition in

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35 Ill. Adm. Code 702.110. Identification of USDWs ~~must~~ shall be made according to Agency criteria adopted by the Agency pursuant to 35 Ill. Adm. Code 702.106.

b) Identification of an exempted aquifer.

1) The Agency may identify (by narrative description, illustrations, maps, or other means) and describe in geographic or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, any aquifer or part of an aquifer that the Agency desires the Board to designate as an exempted aquifer using the criteria in 35 Ill. Adm. Code 730.104, as described in this subsection (b).

2) No designation of an exempted aquifer ~~may~~ shall be final until approved by USEPA~~the Administrator~~ as part of the State program.

3) Subsequent to program approval, the Board may, ~~after notice and opportunity for a public hearing,~~ identify additional exempted aquifers.

4) Identification of exempted aquifers ~~must~~ shall be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act [415 ILCS 5/27 and 28], considering the criteria set forth in 35 Ill. Adm. Code 730.104.

c) For a Class III injection well~~wells~~, an applicant for a permit that necessitates an aquifer exemption under 35 Ill. Adm. Code 730.104(b)(1) ~~must~~ shall furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method and a timetable of planned development of the mining zone ~~must~~ shall be considered by the Board in addition to the information required by Section 704.161(c). Approval of the exempted aquifer ~~must~~ shall be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act [415 ILCS 5/27 and 28]. Rules ~~will~~ shall not become final until approved by USEPA~~the Administrator~~ as a program revision.

BOARD NOTE: Derived from 40 CFR 144.7 (2005)~~(1993)~~.

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.124 Prohibition Against Class IV Injection Wells

- a) The following are prohibited, except as provided in subsection (c) of this Section:
- 1) The construction of any Class IV injection well.
 - 2) The operation or maintenance of any Class IV injection well.
 - 3) Any increase in the amount of hazardous waste or change in the type of hazardous waste injected into a Class IV injection well.
- b) A Class IV injection well~~wells~~ must comply with the requirements of Section 704.203, and ~~with the~~ Class IV injection well closure requirements of Section 704.145 ~~regarding closure of Class IV wells~~.
- c) A well~~Wells~~ used to inject contaminated groundwater that has been treated and is being reinjected into the same formation from which it was originally drawn ~~is~~are not prohibited by this Section if such injection is approved by the Agency pursuant to provisions in the Act for preventive or corrective action, ~~or~~ by the USEPA pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA); ~~(42 USC U.S.C. 9601 et seq.)-9657, by USEPA~~or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA); ~~(42 USC U.S.C. 6901 et seq.), or by the Agency pursuant to Section 39 of the Act [415 ILCS 5/39]-6987.~~
- d) Clarification. This Section does not prohibit any of the~~The~~ following injection wells~~are not prohibited by this Section~~:
- 1) A well~~Wells~~ used to inject hazardous waste into an aquifer~~aquifers~~ or a portion of an aquifer~~portions thereof~~ that has~~have~~ been exempted pursuant to 35 Ill. Adm. Code 730.104 if the exempted aquifer into which waste is injected underlies the lowermost formation containing a USDW. Such a well is~~wells are~~ Class I injection well~~wells~~ as specified in Section 704.106(a)(1), and the owner or operator must comply with the requirements applicable to a Class I injection well~~wells~~.
 - 2) A well~~Wells~~ used to inject hazardous waste where no USDW exists within

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one quarter mile of the well bore in any underground formation, provided that the Agency determines that such injection is into a formation sufficiently isolated to ensure that injected fluids do not migrate from the injection zone. Such ~~a well is a well~~ are Class I injection well, wells as specified in Section 704.106(a)(1), and the owner or operator must comply with the requirements applicable to a Class I injection well.

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

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY RULE

Section 704.141 Existing Class I and III Injection Wells

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

BOARD NOTE: Derived from 40 CFR 144.21(a) and (d) ~~(2005)(1993), as renumbered and amended at 58 Fed. Reg. 63895 (Dec. 3, 1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

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Section 704.142 Prohibitions ~~Against~~ Injection into Wells Authorized by Rule

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

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

BOARD NOTE: Derived from 40 CFR 144.21(c) (2005), ~~as added at 58 Fed. Reg. 63895 (Dec. 3, 1993)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

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Section 704.143 Expiration of Authorization

The authorization provided in Section 704.141 ~~expires~~shall expire upon the earliest of the following events:

- a) Upon the effective date of a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163;
- b) After plugging or abandonment in accordance with an approved plugging and abandonment plan pursuant to Section 704.150(c) and 35 Ill. Adm. Code 730.110, and upon submission of a plugging and abandonment report pursuant to Section 704.150(k); or
- c) Upon conversion in compliance with Section 704.150(j).

BOARD NOTE: Derived from 40 CFR 144.21(b) ~~(2005)(1993), as renumbered and amended at 58 Fed. Reg. 63895 (Dec. 3, 1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.144 Requirements

Any person authorized by rule under Section 704.141 ~~must~~shall comply with the applicable requirements of Section 704.148 and 35 Ill. Adm. Code 730.

BOARD NOTE: Derived from 40 CFR 144.21(e) ~~(2005)(1993), as amended and renumbered at 58 Fed. Reg. 63895 (Dec. 3, 1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.145 Existing Class IV Injection Wells

- a) Injection into a Class IV injection well, ~~wells~~ as defined in Section 704.106(d)(1)₂ is not authorized. The owner or operator of any such well must comply with Sections 704.124 and 704.203.
- b) Closure.
 - 1) Prior to abandoning any Class IV injection well, the owner or operator

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must plug or otherwise close the well in a manner acceptable to the Agency.

- 2) By September 27, 1986, the owner and operator of any Class IV injection well was to have submitted to the Agency a plan for plugging or otherwise closing and abandoning the well.
 - 3) The owner or operator of a Class IV injection well must notify the Agency of intent to abandon the well at least 30 days prior to abandonment.
- c) Notwithstanding ~~the requirements of~~ subsections (a) and (b) of this Section, an injection well that is wells used to inject contaminated groundwater that has been treated and which is being injected into the same formation from which it was drawn ~~is are~~ authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by USEPA, pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), ~~(42 USC U.S.C. 9601 et seq.)-9675~~, by USEPA or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA), ~~(42 USC U.S.C. 6901 et seq.)-6992k~~, or by the Agency, pursuant to Section 39 of the Act [415 ILCS 5/39].

BOARD NOTE: Derived from 40 CFR 144.23 ~~(2005)(1999)~~, as amended at 64 Fed. Reg. 68566 (December 7, 1999).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.146 Class V Injection Wells

- a) A Class V injection well is authorized by rule, subject to the conditions set forth in Section 704.284.
- b) Duration of well authorization by rule. Well authorization under this Section expires upon the effective date of a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163.
- c) Prohibition of injection. An owner or operator of a well that is authorized by rule pursuant to this Section is prohibited from injecting into the well on the occurrence of any of the following:
 - 1) Upon the effective date of an applicable permit denial;

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- 2) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;
- 3) Upon a failure to submit inventory information in a timely manner pursuant to Section 704.148; or
- 4) Upon a failure to comply with a request for information in a timely manner pursuant to Section 704.149.

BOARD NOTE: Derived from 40 CFR 144.24 ~~(2005)(2000)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.147 Requiring a Permit

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

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

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

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

- b) The Agency may require the owner or operator of any well that is authorized by rule under this Subpart C to apply for an individual or area UIC permit under this

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subsection (b) only if the owner or operator has been notified in writing that a permit application is required. The owner or operator of a well that is authorized by rule is prohibited from injecting into the well on the occurrence of either of the circumstances of subsection (b)(1) or (b)(2) of this Section subject to subsection (b)(3) of this Section:

- 1) Upon the effective date of a permit denial; or
- 2) Upon the failure of the owner or operator to submit an application in a timely manner as specified in the notice.
- 3) The notice ~~must~~ shall include all of the following:
 - A) A brief statement of the reasons for this decision;
 - B) An application form;
 - C) A statement setting a time for the owner or operator to file the application; and
 - D) A statement of the consequences of denial or issuance of the permit, or failure to submit an application, as described in this subsection (b).
- c) An owner or operator of a well that is authorized by rule may request to be excluded from the coverage of the rule by applying for an individual or area UIC permit. The owner or operator ~~must~~ shall submit to the Agency an application under Section 704.161 with reasons supporting the request, ~~to the Agency~~. The Agency may grant any such request.

BOARD NOTE: Derived from 40 CFR 144.25 (2005), ~~as amended at 58 Fed. Reg. 63896 (Dec. 3, 1993)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.148 Inventory Requirements

The owner or operator of an injection well that is authorized by rule under this Subpart C must submit inventory information to the Agency. Such an owner or operator is prohibited from injecting into the well upon failure to submit inventory information for the well to the Agency

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within the time frame specified in subsection (d) ~~or (e)~~ of this Section.

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

BOARD NOTE: This information is requested on national form "Inventory of Injection Wells," USEPA Form 7520-16, incorporated by reference in 35 Ill. Adm. Code 720.111(a)~~OMB No. 158-R0170~~.

- b) Additional contents. The owner or operator of a well listed in subsection (b)(1) of this Section must provide the information listed in subsection (b)(2) of this Section.
- 1) This Section applies to the following wells:
 - A) Corresponding 40 CFR 144.26(b)(1)(i) pertains to Class II injection wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;
 - B) Class IV injection wells;
 - C) The following types of Class V injection wells:
 - i) A sand~~Sand~~ or other backfill well~~wells~~, 35 Ill. Adm. Code 730.105(e)(8);
 - ii) A radioactive~~Radioactive~~ waste disposal well~~wells~~ that is~~are~~ not a Class I injection well~~wells~~, 35 Ill. Adm. Code

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730.105(e)(11);

- iii) A geothermal~~Geothermal~~ energy recovery well~~wells~~, 35 Ill. Adm. Code 730.105(e)(12);
 - iv) A brine~~Brine~~ return flow well~~wells~~, 35 Ill. Adm. Code 730.105(e)(14);
 - v) A well~~Wells~~ used in an experimental technology~~technologies~~, 35 Ill. Adm. Code 730.105(e)(15);
 - vi) A municipal or~~Municipal and~~ industrial disposal well~~wells~~ other than a Class I injection well; and
 - vii) Any other Class V injection well~~, wells~~ at the discretion of the Agency.
- 2) The owner or operator of a well listed in subsection (b)(1) of this Section must provide a listing of all wells owned or operated setting forth the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)
- A) Corresponding 40 CFR 144.26(b)(2)(i) pertains to Class II wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;
 - B) The location~~Location~~ of each well or project given by Township, Range, Section, and Quarter-Section;
 - C) The date~~Date~~ of completion of each well;
 - D) Identification and depth of the formations~~formation(s)~~ into which each well is injecting;
 - E) The total~~Total~~ depth of each well;
 - F) The casing~~Casing~~ and cementing record, tubing size, and depth of packer;

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- G) ~~The nature~~Nature of the injected fluids;
- H) ~~The average~~Average and maximum injection pressure at the wellhead;
- I) ~~The average~~Average and maximum injection rate; and
- J) ~~The date~~Date of the last mechanical integrity tests, if any.
- c) This subsection ~~(c)~~ corresponds with 40 CFR 144.26(c), a provision relating to USEPA notification to facilities upon authorization of the state's program. This statement maintains structural consistency with USEPA rules.
- d) Deadlines. ~~The Except as provided in subsection (e) of this Section, the~~ owner or operator of an injection well must submit inventory information no later than March 3, 1985. The Agency need not require inventory information from any facility with RCRA interim status under 35 Ill. Adm. Code 703.
- e) Deadlines for a Class V injection well~~Wells~~.
- 1) The owner or operator of a Class V injection well in which injection took place ~~before March 3, 1985 within one year after the date of approval by USEPA of the Illinois UIC program,~~ and who failed to submit inventory information for the well within the time specified in subsection (d) of this Section may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume or that it may resume sooner.
 - 2) The owner or operator of a Class V injection well in which injection started later than March 3, 1985, must submit inventory information prior to May 2, 1995.
 - 3) The owner or operator of a Class V injection well in which injection started after May 2, 1994 must submit inventory information prior to starting injection.
 - 4) The owner or operator of a Class V injection well prohibited from injecting for failure to submit inventory information for the well within the

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time specified in subsection (e)(2) or (e)(3) of this Section may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume, or that it may resume sooner.

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

BOARD NOTE: Derived from 40 CFR 144.26 ~~(2005)~~(1999), as amended at ~~64 Fed. Reg. 68566~~
(Dec. 7, 1999).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.149 Requiring other Information

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

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

BOARD NOTE: Derived from 40 CFR 144.27 ~~(2005)(1993), as amended at 58 Fed. Reg. 63896 (Dec. 3, 1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

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

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

- a) The owner or operator ~~must~~shall comply with all applicable requirements of this Subpart C and with Sections 704.121, 704.122, 704.124, 704.201, 704.202, and 704.203. Any noncompliance with these requirements constitutes a violation of the Act and SDWA the Safe Drinking Water Act and is grounds for enforcement action, except that the owner or operator need not comply with these requirements to the extent and for the duration such noncompliance is authorized by an emergency permit under Section 704.163.
- b) Twenty-four hour reporting. The owner or operator ~~must~~shall report any noncompliance that may endanger health or the environment, including either of the events described in subsection (b)(1) or (b)(2) of this Section, subject to the conditions of subsection (b)(3) of this Section:

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- 1) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW; or
 - 2) Any noncompliance or malfunction of the injection system that may cause fluid migration into or between USDW's; ~~or~~
 - 3) Any information mustshall be provided orally within 24 hours from the time the owner or operator becomes aware of the circumstances. A written submission mustshall also be provided within five days of the time the owner or operator becomes aware of the circumstances. The written submission mustshall contain a description of the noncompliance and its cause; the period of noncompliance; including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- c) Plugging and abandonment plan.
- 1) The owner or operator mustshall prepare, maintain, and comply with a plan for plugging and abandonment of the wells or project that meets the requirements of 35 Ill. Adm. Code 730.110. For purposes of this subsection (c), temporary intermittent cessation of injection operations is not abandonment.
 - 2) Submission of plan.
 - A) The owner or operator mustshall submit the plan on any forms prescribed by the Agency.
 - B) The owner or operator mustshall submit any proposed significant revision to the method of plugging reflected in the plan no later than the notice of plugging required by subsection (i) of this Section (i.e., 45 days prior to plugging, unless shorter notice is approved).
 - C) The plan mustshall include the following information:
 - i) The nature and quantity and material to be used in plugging;

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- ii) The location and extent (by depth) of the plugs;
 - iii) Any proposed test or measurement to be made;
 - iv) The amount, size, and location (by depth) of casing to be left in the well;
 - v) The method and location where casing is to be parted; and
 - vi) The estimated cost of plugging the well.
- D) After a cessation of operations of two years, the owner or operator ~~must~~shall plug and abandon the well in accordance with the plan, unless the owner or operator performs both of the following actions:
- i) ~~It provides written~~Provides notice to the Agency; and
 - ii) ~~It describes~~Describe actions or procedures, satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger USDW's during the period of temporary abandonment. These actions and procedures ~~must~~shall include compliance with the technical requirements applicable to active injection wells, unless the operator obtains regulatory relief in the form of a variance or adjusted standard from the technical requirements pursuant to 35 Ill. Adm. Code 104 and Title IX of the ~~Environmental Protection~~ Act [415 ILCS 5/Title IX].
- E) The owner or operator of any well that has been temporarily abandoned (ceased operations for more than two years and which has met the requirements of ~~subsections~~subsection (c)(2)(D)(i) and (c)(2)(D)(ii)) of this Section must~~shall~~ notify the Agency in writing prior to resuming operation of the well.
- d) Financial responsibility.
- 1) The owner or operator or transferor of a Class I or Class III injection well is required to demonstrate and maintain financial responsibility and

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resources to close, plug, and abandon the underground injection operation in a manner acceptable to the Agency until one of the following has occurred:

- A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) of this Section above and 35 Ill. Adm. Code 730.110 and submission of a plugging and abandonment report has been made pursuant to subsection (k) of this Section below;
 - B) The well has been converted in compliance with the requirements of subsection (j) of this Section below; or
 - C) The transferor has received notice from the Agency that the transferee has demonstrated financial responsibility for the well. The owner or operator must shall show evidence of such financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as a financial statement.
- 2) The owner or operator was to have submitted such evidence no later than March 3, 1985. Where the ownership or of operational control of the well was transferred later than March 3, 1985, the transferee must shall submit such evidence no later than the date specified in the notice required pursuant to subsection (1)(2) of this Section below.
 - 3) The Agency may require the owner or operator to submit a revised demonstration of financial responsibility if the Agency has reason to believe that the original demonstration is no longer adequate to cover the cost of closing, plugging, and abandoning the well.
 - 4) The owner or operator of a well injecting hazardous waste must shall comply with the financial responsibility requirements of 704.Subpart G of this Part.
 - 5) An owner or operator must notify the Agency by certified mail of the commencement of any voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code that names the owner or operator as debtor, within 10 business days after the commencement of the proceeding. Any party acting as guarantor for the owner or operator for the purpose of financial responsibility must so notify the Agency if the

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guarantor is named as debtor in any such proceeding.

- 6) In the event of commencement of a proceeding specified in subsection (d)(5) of this Section above, an owner or operator that has furnished a financial statement for the purpose of demonstrating financial responsibility pursuant to~~under~~ this Section will~~shall~~ be deemed to be in violation of this subsection (d) until an alternative financial assurance demonstration acceptable to the Agency is provided either by the owner or operator or by its trustee in bankruptcy, receiver, or other authorized party. All parties must~~shall~~ be prohibited from injecting into the well until such alternative financial assurance is provided.
- e) This subsection (e) corresponds with 40 CFR 144.28(e), which pertains exclusively to enhanced recovery and hydrocarbon storage wells (Class II wells). Those wells are regulated by the Illinois Department of Mines and Minerals, rather than by the Board and the Agency. This statement maintains structural consistency with USEPA U.S. EPA rules.
- f) Operating requirements.
 - 1) No person must~~shall~~ cause or allow injection between the outermost casing protecting USDWs~~underground sources of drinking water~~ and the well bore.
 - 2) Maintenance of mechanical integrity.
 - A) The owner or operator of a Class I or Class III injection well authorized by rule under this Subpart C must~~shall~~ establish and maintain mechanical integrity, as defined in 35 Ill. Adm. Code 730.106, until either of the following has occurred:
 - i) The well is properly plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) of this Section above and 35 Ill. Adm. Code 730.110 and a plugging and abandonment report is submitted pursuant to subsection (k);~~below~~, or
 - ii) The well is converted in compliance with subsection (j) of this Section below.

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- B) The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations ~~must~~shall be made.
- 3) Cessation upon Lack of Mechanical Integrity.
- A) When the Agency determines that a Class I (non-hazardous) or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, the Agency ~~must~~shall give written notice of its determination to the owner or operator.
- B) Unless the Agency requires immediate cessation, the owner or operator ~~must~~shall cease injection into the well within 48 hours of receipt of the Agency's determination.
- C) The Agency may allow plugging of the well in accordance with ~~the requirements of~~ 35 Ill. Adm. Code 730.110, or require the owner or operator to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity.
- D) The owner or operator may resume injection upon receipt of written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.
- 4) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.
- 5) For a Class I ~~injection well~~injection wells, unless an alternative to a packer has been approved under 35 Ill. Adm. Code 730.112(c), the owner or operator ~~must~~shall fill the annulus between the tubing and the long string of casings with a fluid approved by the Agency and maintain a pressure, also approved by the Agency, on the annulus. The owner or operator of a Class I well completed with tubing and packer ~~must~~shall fill the annulus between tubing and casing with a non-corrosive fluid and maintain a

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positive pressure on the annulus. For any other Class I injection well~~wells~~, the owner or operator must~~shall~~ insure that the alternative completion method will reliably provide a comparable level of protection of USDWs~~underground sources of drinking water~~.

- 6) Injection pressure for Class I and III injection wells.
 - A) Except during stimulation, the owner or operator must~~shall~~ not exceed an injection pressure at the wellhead that must~~shall~~ be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the injection zone; and
 - B) The owner or operator must~~shall~~ not inject at a pressure that will initiate fractures in the confining zone or cause the movement of injection or formation fluids into a USDW~~an underground source of drinking water~~.
- g) Monitoring Requirements. The owner or operator must~~shall~~ perform the monitoring as described in this subsection (g). Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited in tables IA (List of Approved Biological Methods), IB (List of Approved Inorganic Test Procedures), IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID (List of Approved Test Procedures for Pesticides), IE (List of Approved Radiologic Test Procedures), and IF (List of Approved Methods for Pharmaceutical Pollutants) ~~Table I~~ of 40 CFR 136.3 (Identification of Test Procedures) (1993) or in ~~appendix~~ Appendix III of 40 CFR 261 (Chemical Analysis Test Methods) (1992), each incorporated by reference in 35 Ill. Adm. Code 720.111(b), or with other methods that have been approved by the Agency.
 - 1) The owner or operator of a Class I injection well must undertake the following actions~~shall~~:
 - A) It must analyze~~Analyze~~ the nature of the injected fluids with sufficient frequency to yield data representative of their characteristics;
 - B) It must install~~Install~~ and use continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing;

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- C) ~~It must install~~Install and use monitoring wells within the area of review, if required by the Agency, to monitor any migration of fluids into and pressure in the ~~USDWs~~underground sources of drinking water. The type, number, and location of the wells; the parameters to be measured; and the frequency of monitoring must be approved by the Agency.
- 2) This subsection ~~(g)(2)~~(2) corresponds with 40 CFR 144.28(g)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Mines and Minerals, and not by the Board. This statement maintains structural consistency with ~~USEPA~~U.S. EPA rules.
- 3) The owner or operator of a Class III injection well ~~must undertake the following actions~~shall:
- A) ~~It must provide~~Provide to the Agency a qualitative analysis and ranges in concentrations of all constituents of injected fluids at least once within the first year of authorization and thereafter whenever the injection fluid is modified to the extent that the initial data are incorrect or incomplete.
- i) The owner or operator may request confidentiality pursuant to Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code ~~130120~~130120.
- ii) If the information is proprietary the owner or operator may in lieu of the ranges in concentrations choose to submit maximum concentrations that ~~must~~shall not be exceeded.
- iii) In such a case the owner or operator ~~must~~shall retain records of the undisclosed concentration and provide them upon request to the Agency as part of any enforcement investigation;
- B) ~~It must monitor~~Monitor injection pressure and either flow rate or volume semi-monthly, or meter and record daily injected and produced fluid volumes as appropriate;
- C) ~~It must monitor~~Monitor the fluid level in the injection zone semi-

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monthly, where appropriate; and

- D) All Class III injection wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates to the Agency that manifold monitoring is comparable to individual well monitoring.
- h) Reporting requirements. The owner or operator ~~must~~shall submit reports to the Agency as follows:
- 1) For a Class I injection well~~wells~~, ~~quarterly reports on all of the following~~:
 - A) The physical, chemical, and other relevant characteristics of the injection fluids;
 - B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure;
 - C) The results from groundwater monitoring wells prescribed in subsection (f)(1)(C)of this Section;
 - D) The results of any test of the injection well conducted by the owner or operator during the reported quarter if required by the Agency; and
 - E) Any well work over performed during the reported quarter.
 - 2) This subsection (h)(2) corresponds with 40 CFR 144.28(h)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA U.S. EPA rules.
 - 3) For a Class III injection well, all of the following~~wells~~:
 - A) Quarterly reporting on all monitoring, as required in subsections (f)(2)(A), (f)(2)(B), and (f)(2)(C)of this Section;

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- B) Quarterly reporting of the results of any periodic tests required by the Agency that are performed during the reported quarter; and
 - C) Monitoring may be reported on a project or field basis rather than an individual well basis where manifold monitoring is used.
- i) Retention of records. The owner or operator mustshall retain records of all monitoring information, including the following:
- 1) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this section, for a period of at least three years from the date of the sample, measurement or report. This period may be extended by request of the Agency at any time; and
 - 2) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188. The owner or operator mustshall retain the records after the three year retention period unless it delivers the records to the Agency or obtains written approval from the Agency to discard the records.
- j) Notice of abandonment. The owner or operator mustshall notify the Agency at least 45 days before conversion or abandonment of the well.
- k) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator mustshall submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report mustshall be submitted within 60 days. The report mustshall be certified as accurate by the person who performed the plugging operation. Such report mustshall consist of either:
- 1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency; or
 - 2) Where actual plugging differed from the plan previously submitted, an updated version of the plan, on any form supplied by the Agency, specifying the different procedures used.
- l) Change of ownership.

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- 1) The owner or operator ~~must~~shall notify the Agency of a transfer of ownership or operational control of the well at least 30 days in advance of the proposed transfer.
 - 2) The notice ~~must~~shall include a written agreement between the transferor and the transferee containing a specific date when the financial responsibility demonstration of subsection (d) ~~of this Section~~above will be met by the transferee.
 - 3) The transferee is authorized to inject unless it receives notification from the Agency that the transferee has not demonstrated financial responsibility pursuant to subsection (d) ~~of this Section~~above.
- m) Requirements for ~~a~~ Class I ~~hazardous waste injection well~~Hazardous Waste Wells. The owner or operator of any Class I ~~injection~~ well injecting hazardous waste ~~must~~shall comply with Section 704.203. In addition the owner or operator ~~must~~shall properly dispose of, or decontaminate by removing all hazardous waste residues, all injection well equipment.

BOARD NOTE: Derived from 40 CFR 144.28 ~~(2005)(1993), as amended at 58 Fed. Reg. 62897 (Dec. 3, 1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.151 RCRA Interim Status for Class I Injection Wells

The minimum standards ~~that~~which define acceptable injection of hazardous waste during the period of interim status under 35 Ill. Adm. Code 703 are set out in the applicable provisions of this Part, 35 Ill. Adm. Code 725.530 and 730. The issuance of a UIC permit does not automatically terminate interim status. A Class I injection well's interim status does, however, automatically terminate upon issuance ~~to that well~~ of a RCRA permit to that well, or upon the well's receiving a RCRA permit by rule under 35 Ill. Adm. Code 703.141. Thus, until a Class I injection well injecting hazardous waste receives a RCRA permit or RCRA permit by rule, the well's interim status requirements are the applicable requirements imposed pursuant to this Part and 35 Ill. Adm. Code 725 and 730, including any requirements imposed in the UIC permit.

(BOARD NOTE: ~~Derived from~~See 40 CFR 144.1(h) ~~(2005), as adopted at 52 Fed. Reg. 45797, December 1, 1987)~~

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

SUBPART D: APPLICATION FOR PERMIT

Section 704.161 Application for Permit; Authorization by Permit

- a) Permit application. Unless an underground injection well is authorized by rule under ~~704.Subpart C of this Part~~, all injection activities, including construction of an injection well, are prohibited until the owner or operator is authorized by permit. An owner or operator of a well currently authorized by rule must apply for a permit under this Section unless the well authorization was for the life of the well or project. Authorization by rule for a well or project for which a permit application has been submitted terminates for the well or project upon the effective date of the permit. Procedures for application, issuance, and administration of emergency permits are found exclusively in Section 704.163. A RCRA permit applying the standards of Subpart C of 35 Ill. Adm. Code 724.Subpart C will constitute a UIC permit for hazardous waste injection wells for which the technical standards in 35 Ill. Adm. Code 730 are not generally appropriate.

BOARD NOTE: Subsection (a) of this Section is derived~~Derived~~ from 40 CFR 144.31(a) (2005)(1993), as amended at 58 Fed. Reg. 63897 (Dec. 3, 1993).

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

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- 2) For new injection wells, except new wells in projects authorized under Section 704.141(b) or covered by an existing area permit under Section 704.162(c), the application must be filed a reasonable time before construction is expected to begin.

BOARD NOTE: Subsection (b) of this Section is derived~~Derived~~ from 40 CFR 144.31(c) (2005)~~(1993)~~, as amended at 58 Fed. Reg. 63898 (Dec. 3, 1993).

- c) Contents of UIC application. The applicant must~~shall~~ demonstrate that the underground injection will not endanger drinking water sources. The form and content of the UIC permit application may be prescribed by the Agency including the materials required by 35 Ill. Adm. Code 702.123.
- d) Information requirements for a Class I hazardous waste injection well~~wells~~.
 - 1) The following information is required for each active Class I hazardous waste injection well at a facility seeking a UIC permit:
 - A) The dates the~~Dates~~ well was operated; and.
 - B) Specification of all wastes that have been injected into the well, if available.
 - 2) The owner or operator of any facility containing one or more active hazardous waste injection wells must submit all available information pertaining to any release of hazardous waste or constituents from any active hazardous waste injection well at the facility.
 - 3) The owner or operator of any facility containing one or more active Class I hazardous waste injection wells must conduct such preliminary site investigations as are necessary to determine whether a release is occurring, has occurred, or is likely to have occurred.

BOARD NOTE: Subsection (d) of this Section is derived~~Derived~~ from 40 CFR 144.31(g) (2005)~~(1993)~~.

- e) In addition to the materials required by 35 Ill. Adm. Code 702.123, the applicant must provide the following:
 - 1) It must~~The applicant shall~~ identify and submit on a list with the permit

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application the names and addresses for all owners of record of land within one-quarter mile (401 meters) of the facility boundary. This requirement may be waived by the Agency where the site is located in a populous area such that the requirement would be impracticable; ~~and-~~

- 2) ~~The applicant shall~~ It must submit a plugging and abandonment plan that meets the requirements of 35 Ill. Adm. Code 730.110.

BOARD NOTE: ~~Subsection (e) of this Section is derived~~ Derived from 40 CFR 144.31(e)(9) and (e)(10) ~~(2005)(1993, or amended at 58 Fed. Reg. 63898 (Dec. 3, 1993))~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.162 Area Permits

- a) The Agency may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells for which the following are true:
- 1) ~~They are described~~ Described and identified by location in permit ~~applications~~ application(s), if they are existing wells, except that the Agency may accept a single description of multiple wells with substantially the same characteristics; ~~and~~
 - 2) ~~They are within~~ Within the same well field, facility site, reservoir, project, or similar unit in the same ~~state~~ State; ~~and~~
 - 3) ~~They are operated~~ Operated by a single owner or operator; and
 - 4) ~~They are used~~ Used to inject other than hazardous waste.
- b) Area permits ~~must~~ shall specify both of the following:
- 1) The area within which underground injections are authorized; ~~;~~ and
 - 2) The requirements for construction, monitoring, reporting, operation and abandonment for all wells authorized by the permit.
- c) The area permit may authorize the permittee to construct and operate, convert, or

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plug and abandon new injection wells within the permit area provided the following conditions are fulfilled:

- 1) The permittee notifies the Agency at such time as the permit requires;
 - 2) The additional well satisfies the criteria in subsection (a) of this Section~~above~~ and meets the requirements specified in the permit under subsection (b) of this Section~~above~~; and
 - 3) The cumulative effects of drilling and operation of additional injection wells are considered by the Agency during evaluation of the area permit application and are acceptable to the Agency.
- d) If the Agency determines that any well constructed pursuant to subsection (c) of this Section~~above~~ does not satisfy any of the requirements of subsections (c)(1) and (c)(2) of this Section~~above~~, the Agency may modify the permit under 35 Ill. Adm. Code 702.183 through 702.185, seek revocation under 35 Ill. Adm. Code 702.186, or take enforcement action. If the Agency determines that cumulative effects are unacceptable, the permit may be modified under 35 Ill. Adm. Code 702.183 through 702.185.

BOARD NOTE: Derived from 40 CFR 144.33 (2005)(1993).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.163 Emergency Permits

- a) Coverage. Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, the Agency may temporarily permit a specific underground injection if an imminent and substantial threat~~endangerment~~ to the health of persons will result unless a temporary emergency permit is granted.
- b) Requirements for issuance.
 - 1) Any temporary permit under subsection (a) of this Section ~~must~~shall be for no longer term than required to prevent the threat~~hazard~~.
 - 2) Notice of any temporary permit under this subsection (b) ~~must~~shall be published in accordance with 35 Ill. Adm. Code 705.163 within 10 days after~~of~~ the issuance of the permit.

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- 3) The temporary permit under this section may be either oral or written. If oral, it must be followed within ~~five~~5 calendar days by a written temporary emergency permit.
- 4) The Agency ~~must~~shall condition the temporary permit in any manner it determines is necessary to ensure that the injection will not result in the movement of fluids into ~~a USDW an underground source of drinking water.~~

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

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

SUBPART E: PERMIT CONDITIONS

Section 704.181 Additional Conditions

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

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

BOARD NOTE: ~~Subsection (a) of this Section is derived~~Derived from 40 CFR 144.51(a) (2005)(1993).

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

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BOARD NOTE: Subsection (b) of this Section is derived~~Derived~~ from 40 CFR 144.51(j)(2)(ii) (2005)~~(1993)~~.

- c) In addition to 35 Ill. Adm. Code 702.152(a) (notice of planned changes), the following: except for all new wells authorized by an area permit under Section 704.162(c), a new injection well may not commence injection until construction is complete, and both of the following must occur:
- 1) The permittee must have~~has~~ submitted notice of completion of construction to the Agency; and
 - 2) Inspection review must have occurred, as follows~~Review~~
 - A) The Agency has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or
 - B) The permittee has not received notice from the Agency of its intent to inspect or otherwise review the new injection well within 13 days of the date of the notice in subsection (c)(1) of this Section, in which case prior inspection or review is waived, and the permittee may commence injection. The Agency must~~shall~~ include in its notice a reasonable time period in which it will inspect the well.

BOARD NOTE: Subsection (c) of this Section is derived~~Derived~~ from 40 CFR 144.51(m) (2005)~~(1993)~~.

- d) Reporting noncompliance~~Noncompliance~~
- 1) Twenty-four hour reporting. The permittee must~~shall~~ report any noncompliance that may endanger health or the environment, including the following:
 - A) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW; and-
 - B) Any noncompliance with a permit condition or malfunction of the injection system that may cause fluid migration into or between USDWs.

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- 2) Any information ~~must~~shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission ~~must~~shall also be provided within ~~five~~5 days ~~after~~of the time the permittee becomes aware of the circumstances. The written submission ~~must~~shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates, times, and, if the noncompliance has not been corrected, the anticipated time is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance of the noncompliance.

BOARD NOTE: ~~Subsection (d) of this Section is derived~~Derived from 40 CFR 144.51(1)(6) ~~(2005)~~(1993).

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

BOARD NOTE: ~~Subsection (e) of this Section is derived~~Derived from 40 CFR 144.51(n) ~~(2005)~~(1993).

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

BOARD NOTE: ~~Subsection (f) of this Section is derived~~Derived from 40 CFR 144.51(o) ~~(2005), as added at 58 Fed. Reg. 63898 (Dec. 3, 1993)~~.

- g) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator ~~must~~shall submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report ~~must~~shall be submitted within 60 days. The report ~~must~~shall be certified as accurate by the person who performed the plugging operation. Such report ~~must~~shall consist of either ~~of the~~

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following:

- 1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency;
- 2) Where actual plugging differed from the plan previously submitted, an updated version of the plan on the form supplied by the Agency specifying the differences.

BOARD NOTE: Subsection (g) of this Section is derived Derived from 40 CFR 144.51(p) (2005)(1993), as renumbered at 58 Fed. Reg. 63898 (Dec. 3, 1993).

- h) Duty to establish and maintain mechanical integrity.
 - 1) The owner or operator of a Class I or Class III injection well permitted under this Part and 35 Ill. Adm. Code 702 mustshall establish prior to commencing injection or on a schedule determined by the Agency, and thereafter mechanical integrity, as defined in 35 Ill. Adm. Code 730.108. The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations must be made.
 - 2) When the Agency determines that a Class I or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, it mustshall give written notice of its determination to the owner or operator. Unless the Agency requires immediate cessation, the owner or operator mustshall cease injection into the well within 48 hours of receipt of the Agency determination. The Agency may allow plugging of the well pursuant to ~~the requirements of~~ 35 Ill. Adm. Code 730.110 or require the permittee to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.
 - 3) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection, if the owner or operator has made a satisfactory showing that there is no movement of fluid into or between

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USDWs.

BOARD NOTE: ~~Subsection (h) of this Section is derived~~Derived from 40 CFR 144.51(q) ~~(2005), as added at 58 Fed. Reg. 63898 (Dec. 3, 1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.182 Establishing UIC Permit Conditions

In addition to the conditions established under 35 Ill. Adm. Code 702.160 and Section 704.181, each UIC permit ~~must~~shall include conditions meeting the requirements of the following ~~Sections~~sections, when applicable.

BOARD NOTE: Derived from 40 CFR 144.52(a) preamble ~~(2005)~~(1993).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.183 Construction Requirements

Existing wells ~~must~~shall achieve compliance with construction requirements as set forth in 35 Ill. Adm. Code 730 according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well ~~must~~shall submit plans for testing, drilling, and construction as part of the permit application. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements (see Section 704.121). New wells ~~must~~shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Agency as minor modifications. (See 35 Ill. Adm. Code 702.187.) No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Agency.

BOARD NOTE: Derived from 40 CFR 144.52(a)(1) ~~(2005)~~(1993).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.184 Corrective Action

UIC permits ~~must~~shall require by condition corrective action as set forth in Section 704.193 and 35 Ill. Adm. Code 730.107.

BOARD NOTE: Derived from 40 CFR 144.52(a)(2) ~~(2005)~~(1993).

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.185 Operation Requirements

The permit must~~shall~~ establish any maximum injection volumes and pressures necessary to assure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any USDW~~underground source of drinking water~~, that formation fluids are not displaced into any USDW~~underground source of drinking water~~, and to assure compliance with the 35 Ill. Adm. Code 730 operating requirements.

BOARD NOTE: Derived from 40 CFR 144.52(a)(3) (2005)~~(1993)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.186 Hazardous Waste Requirements

UIC permits must~~shall~~ require by condition requirements for wells managing hazardous waste, as set forth in 704.Subpart F of this Part.

BOARD NOTE: Derived from 40 CFR 144.52(a)(4) (2005)~~(1993)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.187 Monitoring and Reporting

UIC permits must~~shall~~ require by condition monitoring and reporting requirements, as set forth in 35 Ill. Adm. Code 730. The permittee must~~shall~~ be required to identify types of tests and methods used to generate the monitoring data. Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited and described in tables IA (List of Approved Biological Methods), IB (List of Approved Inorganic Test Procedures), IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID (List of Approved Test Procedures for Pesticides), IE (List of Approved Radiologic Test Procedures), and IF (List of Approved Methods for Pharmaceutical Pollutants) ~~Table I~~ of 40 CFR 136.3 (Identification of Test Procedures), each incorporated by reference in 35 Ill. Adm. Code 720.111(b); (1985) as stated~~or~~ in Appendix C to 35 Ill. Adm. Code 261; Appendix III of 40 CFR 261 (1985) or, in certain circumstances, by other methods that~~which~~ have been approved in writing by the Agency.

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.52(a)(5) (2005)~~.)~~

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.188 Plugging and Abandonment

Any permit ~~must~~shall include a requirement that, after a cessation of operations of two years, the owner or operator ~~must~~shall plug and abandon the well in accordance with the plan unless it does the following~~he~~:

- a) ~~It provides~~Provides notice to the Agency; and
- b) ~~It describes~~Describes actions or procedures satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger USDWs during the period of temporary abandonment. These actions and procedures ~~must~~shall include compliance with the technical requirements applicable to active injection wells, unless waived by the Agency.

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.52(a)(6) ~~(2005).~~)

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.189 Financial Responsibility

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

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- b) The permittee must show evidence of financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as financial statements or other materials acceptable to the Agency. The Agency may on a periodic basis require the holder of a life-time permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility if necessary.
- c) The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of ~~704~~.Subpart G of this Part.

BOARD NOTE: Derived from 40 CFR 144.52(a)(7) ~~(2005)(1993), as amended at 58 Fed. Reg. 63898 (Dec. 3, 1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.190 Mechanical Integrity

A permit for any Class I or Class III injection well or injection project that lacks mechanical integrity ~~must~~shall include, or for any Class V injection well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Agency under 35 Ill. Adm. Code 730.108 that the well has mechanical integrity.

BOARD NOTE: Derived from 40 CFR 144.52(a)(8) ~~(2005)(1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.191 Additional Conditions

The Agency ~~must~~shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into a USDW~~an underground source of drinking water~~.

BOARD NOTE: Derived from 40 CFR 144.52(a)(9) ~~(2005)(1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.192 Waiver of Requirements by Agency

- a) When injection does not occur into, through, or above a USDW~~an underground source of drinking water~~, the Agency may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity,

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operation, monitoring, and reporting than required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into a USDW~~an underground source of drinking water~~.

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

BOARD NOTE: Derived from 40 CFR 144.16 (2005)~~(1993)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.193 Corrective Action

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

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injection well requiring corrective action ~~must~~shall include a compliance schedule requiring any corrective action accepted or prescribed under subsection (a) ~~of this Section above~~ to be completed as soon as possible.

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

BOARD NOTE: Derived from 40 CFR 144.55 ~~(2005)~~(1993).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.194 Maintenance and Submission of Records

The Agency ~~must~~shall include, as a condition to any UIC permit, a requirement that the owner or operator of the injection well ~~must~~shall establish and maintain such records, make such reports, conduct such monitoring, and provide such other information as the Agency deems necessary to determine whether the owner or operator has acted or is acting in compliance with the Act and Board regulations.

BOARD NOTE: Derived from 40 CFR 144.17 ~~(2005)~~, as added at 58 Fed. Reg. 63895 (Dec. 3, 1993).

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE

Section 704.201 Applicability

This Subpart F applies~~The regulations in this Part apply~~ to a generator~~all generators~~ of hazardous waste, and to the owner~~owners~~ or operator~~operators~~ of any~~all~~ hazardous waste management facility~~facilities~~ that uses~~using~~ any class of well to inject hazardous wastes accompanied by a manifest. (See also Section 704.124.)

BOARD NOTE: Derived from~~(Board Note: See 40 CFR 144.14(a) (2005).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.202 Authorization

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

BOARD NOTE: Derived from~~(Board Note: See 40 CFR 144.14(b) (2005).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.203 Requirements

In addition to requiring compliance with the applicable requirements of this Part and 35 Ill. Adm. Code 730, the owner or operator of any facility described in Section 704.202 must~~shall~~ comply with the following requirements:

- a) Notification. The owner or operator must~~shall~~ comply with the notification requirements of section~~Section~~ 3010 of the Resource Conservation and Recovery Act (42 USC~~U.S.C.~~ 6901 et seq.).
- b) Identification number. The owner or operator must~~shall~~ comply with ~~the requirements of~~ 35 Ill. Adm. Code 724.111 ~~and 40 CFR 264.11 (1992)~~.
- c) Manifest system. The owner or operator must~~shall~~ comply with the applicable recordkeeping and reporting requirements for manifested wastes in 35 Ill. Adm.

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Code 724.171 ~~and 40 CFR 264.71 (1992).~~

- d) Manifest discrepancies. The owner or operator mustshall comply with 35 Ill. Adm. Code 724.172 ~~and 40 CFR 264.72 (1992).~~
- e) Operating record. The owner or operator mustshall comply with 35 Ill. Adm. Code 724.173(a), (b)(1), and (b)(2) ~~and 40 CFR 264.73(a), (b)(1) and (b)(2) (1992), as amended at 57 Fed. Reg. 3487 (Jan. 29, 1992).~~
- f) Annual report. The owner or operator mustshall comply with 35 Ill. Adm. Code 724.175 ~~and 40 CFR 264.75 (1992).~~
- g) Unmanifested waste report. The owner or operator mustshall comply with 35 Ill. Adm. Code 724.176 ~~and 40 CFR 264.76 (1992).~~
- h) Personnel training. The owner or operator mustshall comply with the applicable personnel training requirements of 35 Ill. Adm. Code 724.116 ~~and 40 CFR 264.16 (1992).~~
- i) Certification of closure. When abandonment is completed, the owner or operator must submit to the Agency certification by the owner or operator and certification by an independent registered professional engineer that the facility has been closed in accordance with the specifications in Section 704.188.

BOARD NOTE: Derived from 40 CFR 144.14(c) (2005)~~(1993).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

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

Section 704.210 Applicability

~~The requirements of~~ Sections 704.212, 704.213, and 704.240 apply to the owner or operator ~~owners and operators~~ of an~~all~~ existing or~~and~~ new Class I Hazardous waste injection well~~wells~~, except as provided otherwise in this Subpart G.

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.60 (2005).~~)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

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Section 704.211 Definitions

- a) "Plugging and abandonment plan" or "plan" means the plan for plugging and abandonment prepared in accordance with ~~the requirements of~~ Sections 704.150 and 704.181(f).
- b) "Current plugging and abandonment cost estimate" or "current cost estimate" means the most recent of the estimates prepared in accordance with Sections 704.212(a), (b), and (c).
- c) "Parent corporation" means a corporation ~~that~~which directly owns at least 50 percent of the voting stock of the corporation ~~that~~which is the injection well owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.
- d) The following terms are used in the specifications for the financial test for plugging and abandonment. The definitions are intended to represent the common meanings of the terms as they are generally used by the business community.

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

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

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

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

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

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

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

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

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.61 (2005).)

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.212 Cost Estimate for Plugging and Abandonment

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

BOARD NOTE: Corresponding 40 CFR 144.62(b) cites "Oil and Gas Field Equipment Cost Index" without attribution of its source. The Board has located a

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publication entitled "Oil and Gas Lease Equipment and Operating Costs 1987 to [Date]." It is assembled by the U.S. Department of Energy, Energy Information Administration. It is available only on the Internet at www.eia.doe.gov. The Board replaced the federally cited reference with this document. The full link for the document (in March 2006) is as follows: http://www.eia.doe.gov/pub/oil_gas/natural_gas/data_publications/cost_indices/equipment_production/current/coststudy.html.

- c) The owner or operator must review the cost estimate whenever a change in the plan increases the cost of plugging and abandonment. The revised cost estimate must be adjusted for inflation as specified in subsection (b) of this Section.
- d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest cost estimate prepared in accordance with subsections (a) and (c) of this Section and, when this estimate has been adjusted in accordance with subsection (b) of this Section, the latest adjusted cost estimate.

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.62 (2005)~~.)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.213 Financial Assurance for Plugging and Abandonment

An owner or operator of each facility must establish "financial assurance" for the plugging and abandonment of each existing and new Class I hazardous waste injection well. The owner or operator must choose one of the following financial assurance mechanisms:

- a) A trust~~Trust~~ fund (Section 704.214);
- b) A surety~~Surety~~ bond guaranteeing payment (Section 704.215);
- c) A surety~~Surety~~ bond guaranteeing performance (Section 704.216);
- d) A letter~~Letter~~ of credit (Section 704.217);
- e) Insurance (Section 704.218); or
- f) The financial~~Financial~~ test and corporate guarantee (Section 704.219);

BOARD NOTE: Derived from 40 CFR 144.63 preamble (2005)~~(1993)~~.

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.214 Trust Fund

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

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

Where:

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\underline{PE} \equiv the current cost estimate
 \underline{CV} \equiv the current value of the trust fund
 \underline{Y} \equiv the number of years remaining in the pay-in period

$$\text{Next payment} = (\underline{PE} - \underline{CV})/\underline{Y}$$

~~where PE is the current cost estimate, CV is the current value of the trust fund and Y is the number of years remaining in the pay-in period.~~

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

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

Where:

\underline{PE} \equiv the current cost estimate
 \underline{CV} \equiv the current value of the trust fund
 \underline{Y} \equiv the number of years remaining in the pay-in period

$$\text{Next payment} = (\underline{PE} - \underline{CV})/\underline{Y}$$

~~where PE is the current cost estimate, CV is the current value of the trust fund and Y is the number of years remaining in the pay-in period.~~

- d) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (c) of this Section.
- e) If the owner or operator establishes a trust fund after having used one or more

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alternate financial assurance mechanisms, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this Section.

- f) After the pay-in period is completed, whenever the current cost estimate changes the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current cost estimate, or obtain other financial assurance to cover the difference.
- g) If the value of the trust fund is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate.
- h) If an owner or operator substitutes other financial assurance for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate covered by the trust fund.
- i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (g) or (h) of this Section, the Agency mustwill instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
- j) After beginning final plugging and abandonment, an owner and operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency mustwill determine whether the plugging and abandonment expenditures are in accordance with the plan or otherwise justified, and if so, it mustwill instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the value of the trust fund, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222 that the owner or operator is no longer required to maintain financial assurance.

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- k) The Agency ~~must~~will agree to termination of the trust when either of the following occurs:
- 1) ~~The An~~ owner or operator substitutes alternate financial assurance; or
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from (Board Note: See 40 CFR 144.63(a) (2005).)

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.215 Surety Bond Guaranteeing Payment

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

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

- b) The wording of the surety bond must be as specified in Section 704.240.
- c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond ~~must~~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 Section 704.214, except that the following limitations apply:
- 1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

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- 2) Until the standby trust fund is funded pursuant to ~~the requirements of~~ this Section, the following are not required:
 - A) Payments into the trust fund as specified in Section 704.214;
 - B) Updating of Schedule A of the trust agreement to show current cost estimates;
 - C) Annual valuations as required by the trust agreement; and
 - D) Notices of non-payment as required by the trust agreement.
- d) The bond must guarantee that the owner or operator will fulfill the following requirements:
 - 1) It will fund~~Fund~~ the standby trust fund in an amount equal to the penal sum of the bond before the beginning of plugging and abandonment of the injection well; ~~or~~
 - 2) It will fund~~Fund~~ the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin plugging and abandonment is issued by the Board or a U.S. district court or other court of competent jurisdiction; or
 - 3) It will provide~~Provide~~ alternate financial assurance, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
- e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
- f) The penal sum of the bond must be in amount at least equal to the current cost estimate, except as provided in Section 704.220.
- g) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate

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

- h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the Agency as evidenced by the returned receipts.
- i) The owner or operator may cancel the bond if the Agency has given prior written consent based on receipt of evidence of alternate financial assurance.

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.63(b) ~~(2005).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.216 Surety Bond Guaranteeing Performance

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

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

- b) The wording of the surety bond must be as specified in Section 704.240.
- c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond ~~must~~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 Section 704.214, except that the

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following limitations apply:

- 1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
- 2) Until the standby trust fund is funded pursuant to ~~the requirements of this~~ Section, the following are not required:
 - A) Payments into the trust fund as specified in Section 704.214;
 - B) Updating of Schedule A of the trust agreement to show current cost estimates;
 - C) Annual valuations as required by the trust agreement; and
 - D) Notices of non-payment as required by the trust agreement.
- d) The bond must guarantee that the owner or operator will fulfill the following requirements:
 - 1) ~~It will perform~~Perform plugging and abandonment in accordance with the plan and other requirements of the permit for the injection well whenever required to do so; or
 - 2) ~~It will provide~~Provide alternate financial assurance, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
- e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination that the owner or operator has failed to perform plugging and abandonment in accordance with the plan and other permit requirements when required to do so, under terms of the bond the surety ~~must~~will perform plugging and abandonment as guaranteed by the bond or ~~must~~will deposit the amount of the penal sum into the standby trust fund.
- f) The penal sum of the bond must be in an amount at least equal to the current cost estimate.

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- g) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.
- h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the Agency as evidenced by the returned receipts.
- i) The owner or operator may cancel the bond if the Agency has given prior written consent. The Agency ~~must~~ will provide such written content when either of the following occurs:
- 1) An owner or operator substitute alternate financial assurance; or;
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.
- j) The surety will not be liable for deficiencies in the performance of plugging and abandonment by the owner or operator after the Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.63(c) (2005).~~)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.217 Letter of Credit

- a) An owner or operator may satisfy the financial assurance requirement by obtaining an irrevocable standby letter of credit that which conforms to ~~the requirements of~~ this Section and submitting the letter to the Agency. An owner or operator of an injection well must submit the letter of credit to the Agency during submission of the permit application or for approval to operate under rule. The letter of credit must be effective before initial injection of hazardous waste. The issuing institution must be entity that which has the authority to issue letters of

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credit and whose letter-of-credit operations are regulated and examined by a ~~federal~~Federal or State agency.

- b) The wording of the letter of credit ~~must~~but be as specified in Section 704.240.
- c) An owner or operator who uses a letter of credit to satisfy the financial assurance requirement 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~~will 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 Section 704.214, except that ~~the~~following limitations apply:
- 1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and
 - 2) Unless the standby trust fund is funded pursuant to ~~the requirements of~~ this Section, the following are not required:
 - A) Payments into the trust fund as specified in Section 704.214;
 - B) Updating of Schedule A of the trust agreement to show current cost estimates;
 - C) Annual valuations as required by the trust agreement; and
 - D) Notices of non-payment as required by the trust agreement.
- d) 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~~EPA Identification Number, name and address of the facility, and the amount of funds assured for plugging and abandonment of the well by the letter of credit.
- e) 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

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the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

- f) The letter of credit must be issued in an amount at least equal to the current cost estimate, except as provided in Section 704.220.
- g) Whenever the current cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the letter of credit to be increased so that it at least equals the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the amount of the letter of credit may be reduced to the amount of the current cost estimate following written approval by the Agency.
- h) Following a determination that the owner or operator has failed to perform final plugging and abandonment in accordance with the plan and other permit requirements when required to do so, the Agency may draw on the letter of credit.
- i) If the owner or operator does not establish alternate financial assurance 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~~ will 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~~ will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance and obtain written approval of such assurance from the Agency.
- j) The Agency ~~must~~ will return the letter of credit to the issuing institution for termination when:
 - 1) An owner or operator substitutes alternate financial assurance; or;
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from~~(BOARD NOTE: See 40 CFR 144.63(d) (2005).)~~

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.218 Plugging and Abandonment Insurance

- a) An owner or operator may satisfy the financial assurance requirement by obtaining insurance ~~that~~which conforms to ~~the requirements of~~this Section and submitting a certificate of such insurance to the Agency. An owner or operator of a new injection well must submit the certificate of insurance to the Agency with the permit application or for approval operate under rule. The insurance must be effective before injection starts. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.
- b) The wording of the certificate of insurance must be as specified in Section 704.240.
- c) The policy must be issued for a face amount at least equal to the current cost estimate, except as provided in Section 704.220. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.
- d) The policy must guarantee that funds will be available whenever final plugging and abandonment occurs. The policy must also guarantee that once plugging and abandonment begins, the ~~insurer~~insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies.
- e) After beginning plugging and abandonment, an owner or operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment ~~expenditures~~expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency ~~must~~will determine whether the plugging and abandonment ~~expenditures~~expenditures are in accordance with the plan or otherwise justified, and if so, ~~it~~ mustwill instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the face amount of the policy, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222, that the owner or operator is no longer required

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to maintain financial assurance for plugging and abandonment of the injection well.

- f) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator, as specified in subsection (j) of this Section. Failure to pay the premium, without substitution of alternate financial assurance, will constitute a significant violation of these regulations, warranting such remedy as the Agency deems necessary. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination or failure to renew due to non-payment of the premium, rather than upon the date of expiration.
- g) Each policy must contain provisions allowing assignment to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.
- h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return of receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration any of the following occurs:
- 1) The Agency deems the injection well abandoned;
 - 2) The permit is terminated or revoked or a new permit is denied; ~~or~~
 - 3) Plugging and abandonment is ordered by the Board, ~~or~~ a U.S. district court, or any other ~~other~~ court of competent jurisdiction; ~~or~~
 - 4) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 U.S.C. (Bankruptcy); or
 - 5) The premium due is paid.

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- i) Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate following written approval by the Agency.
- j) The Agency ~~must~~will give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:
- 1) An owner or operator substitutes alternate financial assurance; ~~or;~~
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from~~(Board Note: See 40 CFR 144.63(e) (2005).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.219 Financial Test and Corporate Guarantee

- a) An owner or operator may satisfy the financial assurance requirement by demonstrating that the owner or operator passes a financial test as specified in this Section. To pass this test the owner or operator must meet the criteria of either subsection (a)(1) or (a)(2) of this Section:
- 1) The owner or operator must have each of the following:
 - A) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; ~~and~~
 - B) Net working capital and tangible net worth each at least six times the sum of the current cost estimate; ~~and~~
 - C) A tangible ~~Tangible~~ net worth of at least \$10 million; and

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- D) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimate.
- 2) The owner or operator must have each of the following:
- A) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A₂ or BBB₂ as issued by Standard and Poor's₂ or Aaa, Aa, A₂ or Baa₂ as issued by Moody's₂; ~~and~~
- B) A tangible ~~Tangible~~ net worth at least six times the sum of the current cost estimate; ~~and~~
- C) A tangible ~~Tangible~~ net worth of at least \$10 million; and
- D) Assets located in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimates.
- b) The phrase "current cost estimate" as used in subsection (a) of this Section refers to the cost estimate required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer₂ as specified in Section 704.240.
- c) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following items to the Agency:
- 1) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 704.240; ~~and~~
- 2) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and
- 3) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that the following are true:
- A) The accountant has compared the data that ~~which~~ the letter from the

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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

- B) In connection with that procedure, no matters came to the accountant's attention ~~that~~which caused the accountant to believe that the specified data should be adjusted.
- d) An owner or operator of a new injection well must submit the items specified in subsection (c) of this Section to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c) of this Section.
- e) After the initial submission of items specified in subsection (c) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c) of this Section.
- f) If the owner or operator no longer meets the requirements of subsection (a) of this Section, the owner or operator must send notice to the Agency intent to establish alternate financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.
- g) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) of this Section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (c) of this Section. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (a), the owner or operator must provide alternate financial assurance within 30 days after notification of such a finding.
- h) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (~~{see subsection (c)(2) of this Section}~~). An adverse opinion or disclaimer of opinion will be cause for disallowance. The Agency ~~must~~will evaluate other qualifications on an individual basis. The owner or operator must

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provide alternate financial assurance within 30 days after notification of the disallowance.

- i) The owner or operator is no longer required to submit the items specified in subsection (c) of this Section when either of the following occurs:
 - 1) An owner or operator substitutes alternate financial assurance; or
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.

- j) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The ~~guarantor~~guarantor must meet the requirements for owners or operators in subsections (a) through (h) of this Section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be as specified in Section 704.240. The corporate guarantee must accompany the items sent to the Agency, as specified in subsection (c) of this Section. The terms of the corporate guarantee must provide that the following limitations apply:
 - 1) If the owner or operator fails to perform plugging and abandonment of the injection well covered by the corporate guarantee in accordance with the plan and other permit requirements whenever required to do so, the guarantor ~~must~~will do so or establish a trust fund, as specified in Section 704.214 in the name of the owner or operator.
 - 2) The corporate guarantee ~~must~~will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and the Agency, as evidenced by the return receipts. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.
 - 3) If the owner or operator fails to provide alternate financial assurance and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor ~~must~~will provide such alternative financial assurance in the name of the owner or operator.

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BOARD NOTE: Derived from~~(Board Note: See 40 CFR 144.63(f) (2005).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.220 Multiple Financial Mechanisms

An owner or operator may satisfy the financial assurance requirement by establishing more than one financial mechanism per injection well. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letter of credit, and insurance. The mechanisms must be as specified in Sections 704.214, 704.215, 704.217, and 704.218, respectively, except that it is the combination of mechanisms, rather than the single mechanism, that which must provide financial assurance for an amount at least equal to the current cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, the owner or operator may use that trust fund as the standby trust fund for the other mechanisms. A single standby trust may be established for two or more mechanisms. The Agency may invoke any or all of the mechanisms to provide for plugging and abandonment of the injection well.

BOARD NOTE: Derived from~~(Board Note: See 40 CFR 144.63(g) (2005).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.221 Financial Mechanism for Multiple Facilities

An owner or operator may use a financial assurance mechanism specified in Sections 704.213 or 704.220 to meet the financial assurance requirement for more than one injection well. Evidence of financial assurance submitted to the Agency must include a list showing, for each injection well, the USEPA identification number~~EPA Identification Number~~, name, address, and the amount of funds for plugging and abandonment assured by the mechanisms. The operator must~~shall~~ provide sufficient financial assurance to the Agency to plug and abandon all of the wells the operator has in Illinois. 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 has been established and maintained for each injection well. In directing funds available through the mechanism for plugging and abandonment of any of the injection wells covered by the mechanism, the Agency may direct only the amount of funds designated for that injection well, unless the owner or operator agrees to use additional funds available under the mechanism.

BOARD NOTE: Derived from~~(Board Note: See 40 CFR 144.63(h) (2005).)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

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Section 704.222 Release of the Owner or Operator

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that plugging and abandonment has been accomplished in accordance with the plan, the Agency ~~must~~will notify the owner or operator in writing that the owner or operator is no longer required by this Subpart G to maintain financial assurance for plugging and abandonment of the injection well, unless the Agency has reason to believe that plugging and abandonment has not been in accordance with the plan.

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.63(i) (2005).~~)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.230 Incapacity

- a) An owner or operator ~~must~~shall notify the Agency by certified mail of the commencement of a voluntary or involuntary proceeding under 11 USC U.S.C. (Bankruptcy), naming the owner or operator as debtor, within 10 business days after the commencement of the proceeding. A guarantor of a corporate guarantee as specified in Section 704.219 must make such a notification if the guarantor is named as debtor, as required under the terms of guarantee in Section 704.240.
- b) An owner or operator who fulfills ~~the requirements of~~ Section 704.213 by obtaining a letter of credit, surety bond, or insurance policy will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency or a suspension or revocation of the license or charter of the issuing institution. The owner or operator must establish other financial assurance within 60 days after such an event.

BOARD NOTE: Derived from~~(Board Note: See~~ 40 CFR 144.64 (2005).~~)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.240 Wording of the Instruments

~~The Board incorporates by reference 40 CFR 144.70 (1992), as amended at 59 Fed. Reg. 29959 (June 10, 1994). This incorporation includes no future amendments or editions.~~ The Agency ~~must~~will promulgate ~~standardized~~standardized forms based on 40 CFR 144.70 (Wording of the Instruments), ~~incorporated by reference in 35 Ill. Adm. Code 720.111(b),~~ with such changes in

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wording as are necessary under Illinois law. Any owner or operator required to establish financial assurance under this Subpart ~~G must~~shall do so only upon the ~~standardized~~standardized forms promulgated by the Agency. The Agency may reject any financial assurance document that is not submitted on such standardized forms.

BOARD NOTE: Derived from 40 CFR 144.70 ~~(2005)(1992), as amended at 59 Fed. Reg. 29959 (June 10, 1994).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

SUBPART H: ISSUED PERMITS

Section 704.260 Transfer

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

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subsection (b) may also be a minor modification under Section 704.264. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection (b)(2) of this Section.

BOARD NOTE: ~~Formerly codified as 35 Ill. Adm. Code 702.182.~~ Derived from 40 CFR 144.38 (2005)~~(1988)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.261 Modification

When the Agency receives any information (for example, it inspects the facility; it receives information submitted by the permittee, as required in the permit (~~see~~See 35 Ill. Adm. Code 702.140 through 702.152); it receives a request for modification or reissuance; or it conducts a review of the permit file), it may determine whether or not one or more of the causes listed in Sections 704.262 and 704.263 for modification or reissuance exist. If cause exists, the Agency may modify or reissue the permit accordingly, subject to the limitations of Section 704.263 and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If cause does not exist under Sections 704.261 through 704.264, the Agency ~~may~~shall not modify or reissue the permit. If a permit modification satisfies the criteria in Section 704.264 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 followed.

BOARD NOTE: ~~Formerly codified as 35 Ill. Adm. Code 702.183.~~ Derived from 40 CFR 144.39 preamble (2005)~~(1993)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.262 Causes for Modification

- a) The following are causes for modification of a permit~~permits~~. For a Class I hazardous waste injection well~~wells~~ or a Class III injection well~~wells~~, any of the following may be cause for reissuance of the permit, as well as for permit modification. For all other injection wells, the following may be cause for reissuance of the permit, as well as for permit modification, when the permittee requests or agrees:

- 1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance

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~~that~~which justify the application of permit conditions that are different or absent in the existing permit.

- 2) Information. Permits other than for aUIC Class III injection wellwells may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For anUIC area permit,permits this cause mustshall include any information indicating that cumulative effects on the environment are unacceptable.
- 3) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued. A permitPermits other than for aUIC Class I hazardous waste injection wellwells or Class III injection wellwells may be modified during their terms for this cause only as follows:
 - A) The Agency may modify the permit when standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.
 - B) The permittee may request modification when all of the following occur:
 - i) The permit condition requested to be modified was based on a provision ofpromulgated 35 Ill. Adm. Code 730 regulation; and
 - ii) The Board has revised, withdrawn, or modified the provisionthat portion of the regulation on which the permit condition was based; and
 - iii) TheA permittee requests modification in accordance with 35 Ill. Adm. Code 705.128 within ninety (90) days after the effective date of the changed statute or amended standards or regulations Illinois Register notice of the rulemaking on which the request is based.
 - C) For judicial decisions, a court of competent jurisdiction has

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remanded and stayed Board promulgated regulations, if the remand and stay concern that portion of the regulations on which the permit condition was based or if a request is filed by the permittee in accordance with 35 Ill. Adm. Code 705.128 within ~~ninety (90)~~ days ~~after~~ judicial remand.

- 4) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, ~~or~~ materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy.
- b) The following are causes to modify or, alternatively, to reissue a permit:
- 1) The Agency has received notification (as required in the permit, see 35 Ill. Adm. Code Section 702.152(c)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (35 Ill. Adm. Code Section 702.182(b)), but ~~it must will~~ not be reissued after the effective date of the transfer, except upon the request of the new permittee.
 - 2) A determination that the waste being injected is a hazardous waste, as defined in 35 Ill. Adm. Code 721.103, either because the definition has been revised, or because a previous determination has been changed.

BOARD NOTE: ~~Formerly codified as 35 Ill. Adm. Code 702.184.~~ Derived from 40 CFR 144.39 (2005)(~~1993~~).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.263 Well Siting

Suitability of the well location ~~must will~~ not be considered at the time of permit modification unless new information or standards indicate that a threat to human health or the environment exists ~~that which~~ was unknown at the time of permit issuance or unless required under the ~~Environmental Protection Act~~ [415 ILCS 5]. However, certain modifications may require site location suitability approval pursuant to Section 39.2 of the ~~Environmental Protection Act~~ [415 ILCS 5/39.2].

BOARD NOTE: ~~Formerly codified as 35 Ill. Adm. Code 702.185.~~ Derived from 40 CFR 144.39(c) (2005)(~~1993~~).

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.264 Minor Modifications

Upon the consent of the permittee, the Agency may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of 35 Ill. Adm. Code 705. Any permit modification not processed as a minor modification under this Section must be made for cause and with a 35 Ill. Adm. Code 705 draft permit and public notice as required in Sections 704.261 through 704.263. Minor modifications may only involve the following changes:

- a) Correcting~~Correct~~ typographical errors;
- b) Requiring~~Require~~ more frequent monitoring or reporting by the permittee;
- c) Changing~~Change~~ an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
- d) Allowing~~Allow~~ for a change in ownership or operational control of a facility where the Agency determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Agency; or;
- e) Making other limited changes, as follows~~Limited Changes~~:
 - 1) Changing~~Change~~ quantities or types of fluids injected that~~which~~ are within the capacity of the facility as permitted and, in the judgment of the Agency, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.
 - 2) Changing~~Change~~ construction requirements approved by the Agency pursuant to 35 Ill. Adm. Code 704.182 (establishing UIC permit conditions), provided that any such alteration must~~shall~~ comply with ~~the requirements of~~ this Part and 35 Ill. Adm. Code 702~~704~~ and 730.

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- 3) ~~Amending~~ Amend a plugging and abandonment plan ~~that~~ which has been updated under ~~Section 35 Ill. Adm. Code~~ 704.181(e).

BOARD NOTE: Derived from 40 CFR 144.41 ~~(2005)~~, ~~(1988)~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

Section 704.279 General

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

BOARD NOTE: Derived from 40 CFR 144.79 ~~(2005)~~, ~~as added at 64 Fed. Reg. 68566 (December 7, 1999)~~. USEPA wrote ~~corresponding subpart G of the federal counterpart to this Subpart~~, 40 CFR 144, ~~Subpart G~~, in a question-and-answer format to make it easier to understand the regulatory requirements. The Board has abandoned that format in favor of a more traditional approach of using clear statements of the requirements and their applicability.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.280 Definition of a Class V Injection Well

Section 704.106 defines the five classes of injection wells, including a Class V injection well, as regulated under this Subpart ~~I~~. Typically, Class V ~~injection~~ wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids placed in the ground qualify as a hazardous waste under ~~the Resource Conservation and Recovery Act (RCRA)~~, the well is either a Class I or Class IV ~~injection~~ well, not a Class V ~~injection~~ well. Examples of Class V ~~injection~~ wells are described in Section 704.281.

BOARD NOTE: Derived from 40 CFR 144.80 ~~(2005)~~, ~~as added at 64 Fed. Reg. 68566 (December 7, 1999)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

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Section 704.281 Examples of Class V Injection Wells

The following are examples of Class V injection wells to which this Subpart I applies:

- a) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;
- b) ~~A large~~Large capacity ~~cesspools~~cesspools, including a multiple-dwelling, community, or regional ~~cesspools~~cesspools, or any other ~~devices~~devices that ~~receives~~receive sanitary wastes containing human excreta, that ~~has~~have an open bottom and, sometimes, perforated sides. The UIC requirements do not apply to a single family residential ~~cesspools~~cesspools, nor do they apply to a non-residential ~~cesspools~~cesspools that ~~receives~~receive solely sanitary waste and which ~~has~~have the capacity to serve fewer than 20 persons a day;
- c) ~~A cooling~~Cooling water return flow ~~well~~wells that ~~is~~are used to inject water previously used for cooling;
- d) ~~A drainage well~~Drainage wells that ~~is~~are used to drain surface fluids, primarily storm runoff, into a subsurface formation;
- e) ~~A dry well~~Dry wells that ~~is~~are used for the injection of wastes into a subsurface formation;
- f) ~~A recharge well~~Recharge wells that ~~is~~are used to replenish the water in an aquifer;
- g) ~~A salt~~Salt water intrusion barrier ~~well~~wells that ~~is~~are used to inject water into a fresh aquifer to prevent the intrusion of salt water into the fresh water;
- h) ~~A sand~~Sand backfill and other backfill ~~well~~wells that ~~is~~are used to inject a mixture of water and sand, mill tailings, or other solids into mined out portions of a subsurface ~~mine, mines~~ whether what is injected is a radioactive waste or not;
- i) ~~A septic~~Septic system ~~well~~wells that ~~is~~are used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to a single family residential septic system ~~well~~wells, nor to a non-residential septic system ~~well~~wells that ~~is~~are used solely for the disposal of sanitary waste and which ~~has~~have the capacity to serve fewer than 20 persons a day;

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- j) ~~A subsidence~~Subsidence control ~~well~~wells (not used for the purpose of oil or natural gas production) that ~~is~~are used to inject fluids into a non-oil-and- gas-producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;
- k) ~~An injection well~~Injection wells associated with the recovery of geothermal energy for heating, aquaculture, and production of electric power;
- l) ~~A well~~Wells that ~~is~~are used for solution mining of conventional mines, such as stopes leaching;
- m) ~~A well~~Wells that ~~is~~are used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;
- n) ~~An injection well~~Injection wells that ~~is~~are used in experimental technologies;
- o) ~~An injection well~~Injection wells that ~~is~~are used for ~~in-situ~~in situ recovery of lignite, coal, tar sands, and oil shale; and
- p) ~~A motor~~Motor vehicle waste disposal ~~well~~wells that ~~receives~~receive or which ~~has~~have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, an automotive repair shop, a new or used car dealership, a specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in ~~this type of well~~these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels (MCLs) established by the primary drinking water regulations (35 Ill. Adm. Code 611). These fluids also may include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, that pose risks to human health.

BOARD NOTE: Derived from 40 CFR 144.81 ~~(2005), as added at 64 Fed. Reg. 68566 (December 7, 1999).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.282 Protection of Underground Sources of Drinking Water

This Subpart I requires that an owner or operator of a Class V injection well must not allow movement of fluid into USDWs that might cause endangerment of the USDW, that the owner or operator must comply with the UIC requirements in this Part and 35 Ill. Adm. Code 702 and 730,

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that the owner or operator must comply with any other measures required by the State or USEPA to protect USDWs, and that the owner or operator must properly close its well when the owner or operator is through using it. The owner or operator also must submit basic information about its well, as described in Section 704.283.

- a) Prohibition of fluid movement.
 - 1) As described in Section 704.122(a), an owner's or operator's injection activity cannot allow the movement of fluid containing any contaminant into USDWs if the presence of that contaminant may cause a violation of the primary drinking water standards under 35 Ill. Adm. Code 611, may cause a violation of other health-based standards, or may otherwise adversely affect the health of persons. This prohibition applies to the owner's or operator's well construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.
 - 2) If the Agency learns that an owner's or operator's injection activity may endanger ~~a USDW~~USDWs, the Agency may require the owner or operator to close its well, require the owner or operator to get a permit, or require other actions listed in Section 704.122(c), (d), or (e).
- b) Closure requirements. An owner or operator must close the well in a manner that complies with the above prohibition of fluid movement. Also, the owner or operator must dispose or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to its well in accordance with all applicable federal, State, and local regulations and requirements.
- c) Other requirements in this Part and 35 Ill. Adm. Code 702 and 730. Beyond this Subpart I, the owner and operator are subject to other UIC program requirements in this Part and 35 Ill. Adm. Code 702 and 730. While most of the relevant requirements are repeated or referenced in this Subpart I for convenience, the owner or operator needs to read all of this Part and 35 Ill. Adm. Code 702 and 730 to fully understand the entire UIC program.
- d) Other State requirements. This Part and 35 Ill. Adm. Code 702 and 730 define minimum federally-derived UIC requirements. The Agency has the flexibility to establish additional or more stringent requirements based on the authorities in this Part, ~~and~~ 35 Ill. Adm. Code 702 and 730, and the Act [415 ILCS 5], if such additional requirements are determined to be necessary to protect USDWs. The owner and operator must comply with any such additional requirements. The

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owner or operator should contact the Agency to learn more.

BOARD NOTE: Derived from 40 CFR 144.82 ~~(2005)~~(2000).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.283 Notification of a Class V Injection Well

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

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

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on national form "Inventory of Injection Wells," [USEPA Form 7520-16, incorporated by reference in 35 Ill. Adm. Code 720.111\(a\) OMB No. 2040-0042](#). Although ~~USEPA Form 7520-16~~~~the form OMB No. 2040-0042~~ is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

- 1) The owner or operator of a new or existing Class V injection well must contact the Agency to determine what information it must submit and by when it must submit that information.
- 2) The following is the information that the owner or operator must submit:
 - A) No matter what type of Class V injection well is owned or operated, the owner or operator must submit at least the following information for each Class V injection well: ~~facility name and location; name and address of a legal contact person for the facility; the ownership of the facility; the nature and type of the injection well or wells; and the operating status of the injection well or wells.~~
 - i) The facility name and location;

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- ii) The name and address of a legal contact person for the facility;
 - iii) The ownership of the facility;
 - iv) The nature and type of the injection well or wells; and
 - v) The operating status of the injection well or wells.
- B) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.83(a)(2)(ii) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.
- C) The owner or operator must provide a list of all wells it owns or operates, along with the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)
- i) The location of each well or project given by Township, Range, Section, and Quarter-Section, according to the U.S. Land Survey System;
 - ii) The date of completion of each well;
 - iii) The identification and depth of the underground formations formation(s) into which each well is injecting;
 - iv) The total depth of each well;
 - v) A construction narrative and schematic (both plan view and cross-sectional drawings);
 - vi) The nature of the injected fluids;
 - vii) The average and maximum injection pressure at the wellhead;

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- viii) The average and maximum injection rate; and
 - ix) The date of the last inspection.
- 3) The owner and operator is responsible for knowing about, understanding, and complying with these inventory requirements.
- b) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.83(b) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

BOARD NOTE: Derived from 40 CFR 144.83 ~~(2005)~~(2000).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.284 Permit Requirements

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

- a) General authorization by rule. With certain exceptions listed in subsection (b) of this Section, an owner's or operator's Class V injection activity is "authorized by rule," meaning that the owner and operator has to comply with all the requirements of this Subpart I and the rest of this Part and 35 Ill. Adm. Code 702 and 730, but the owner or operator does not need to get an individual permit. Well authorization expires once the owner or operator has properly closed its well, as described in Section 704.282(b).
- b) Circumstances in which permits or other actions are required. If an owner or operator fits into one of the categories listed below, its Class V injection well is no longer authorized by rule. This means that the owner or operator has to either get a permit or close its injection well. The owner or operator can find out whether its well falls into one of these categories by contacting the Agency. Subparts D and H of this Part tell an owner or operator how to apply for a permit and describe other aspects of the permitting process. Subpart C of 35 Ill. Adm. Code 702 and Subpart E of this Part outline some of the requirements that apply to the owner or operator if it gets a permit. An owner or operator must either obtain a permit or close its injection well if any of the following is true:

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

BOARD NOTE: A new motor vehicle waste disposal well or a new cesspool is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.84(a)(2) ~~(2005)~~(2000).

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

BOARD NOTE: Derived from 40 CFR 144.84 ~~(2005)~~(2000).

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.285 Applicability of the Additional Requirements

- a) Large-capacity cesspools. The additional requirements set forth in Section 704.288 apply to ~~all~~ new and existing large-capacity ~~cesspools~~~~cesspools~~. If the owner or operator is using a septic system for these type of wastes, the owner or operator is not subject to the additional requirements in Section 704.288.
- b) Motor vehicle waste disposal wells existing on April 5, 2000. If the owner or operator has a Class V motor vehicle waste disposal well, the additional requirements in Section 704.288 apply to that owner or operator if the well is located in a ground water protection area or other sensitive ground water area that is identified by the Agency, the Board, or USEPA Region ~~5~~~~V~~.

BOARD NOTE: An existing motor vehicle waste disposal well is one for which construction had commenced prior to April 5, 2000. See 40 CFR 144.83(a)(1)(i) and (a)(1)(ii), as added at ~~64 Fed. Reg. 40 CFR~~ 68568 (December 7, 1999). Corresponding 40 CFR 144.85(b) provides that the additional requirements apply Statewide if the State or the USEPA Region fails to identify sensitive groundwater areas. The Board has not included this Statewide applicability provision by virtue of 14.1 through 14.6 and Sections 17.1 through 17.4 of the Act [415 ILCS 5/14.1-14.6 and 17.1-17.4], Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620.

- c) New Motor Vehicle Waste Disposal Wells. The additional requirements in Section 704.288 apply to ~~all~~ new motor vehicle waste disposal ~~well~~~~wells~~.

BOARD NOTE: A new motor vehicle waste disposal well is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.85(c) ~~(2005), as added at 40 CFR 68568 (December 7, 1999).~~

BOARD NOTE: Derived from 40 CFR 144.85 ~~(2005), as added at 64 Fed. Reg. 68569 (December 7, 1999).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.286 Definitions

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"State drinking water source assessment and protection program" is a new approach to protecting drinking water sources, specified in section 1453 of the 1996 Amendments to the Safe Drinking Water Act (42 USC 300j-13).

BOARD NOTE: Under the federal requirements, states must prepare and submit for USEPA approval a program that sets out how each state must will conduct local assessments, including the following: delineating the boundaries of areas providing source waters for public water systems; identifying significant potential sources of contaminants in such areas; and determining the susceptibility of public water systems in the delineated areas to the inventoried sources of contamination. The Illinois Groundwater Protection Act [415 ILCS 55] and the regulations at 35 Ill. Adm. Code 620 adopted pursuant to that law and Sections 14.1 through 14.6 and 17.1 through 17.4 of the Environmental Protection Act [415 ILCS 14.1-14.6 and 17.1-17.4] and the regulations at 35 Ill. Adm. Code 615 through 617 adopted under those provisions are major segments of the required Illinois program.

"Complete local source water assessment for groundwater protection areas." When USEPA has approved a state's drinking water source assessment and protection program, the state must will begin to conduct local assessments for each public water system in that state. For the purposes of this Subpart I, local assessments for community water systems and non-transient non-community systems are complete when the four following requirements are met:

The State must delineate the boundaries of the assessment area for community and non-transient non-community water systems, as such are defined in 35 Ill. Adm. Code 611.101;

The State must identify significant potential sources of contamination in these delineated areas;

The State must determine the susceptibility of community and non-transient non-community water systems in the delineated area to such contaminants; and

The Agency must make the completed assessments available to the public.

BOARD NOTE: The Agency administers the "Illinois Source Water Assessment and Protection Program," which is intended to comply with the federal source water assessment requirements of SDWA Section 1453 (42 USC 300j-13).

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"Groundwater protection area" is a geographic area near or surrounding a community or non-transient non-community water system, as defined in 35 Ill. Adm. Code 611.101, that uses groundwater as a source of drinking water. For the purposes of this Subpart I, the Board considers a "setback zone," as defined in Section 3.61 of the Act [415 ILCS 5/3.61] and regulated pursuant to Sections 14.1 through 14.6 of the Act [415 ILCS 5/14.1-14.6], to be a "groundwater protection area," as intended by corresponding 40 CFR 144.86(c). (See 35 Ill. Adm. Code 615 and 616.) These areas receive priority for the protection of drinking water supplies and federal law requires the State to delineate and assess these areas under section 1453 of the federal Safe Drinking Water Act, 42 USC 300j-13. The additional requirements in Section 704.288 apply to an owner or operator if its Class V motor vehicle waste disposal well is in a groundwater protection area for either a community water system or a non-transient non-community water system. BOARD NOTE: USEPA stated in corresponding 40 CFR 144.86(c) that in many states these areas will be the same as wellhead protection areas delineated as described in section 1428 of the federal SDWA, (42 USC 300h-7).

"Community water system," as defined in 35 Ill. Adm. Code 611.101, is a public water system that serves at least 15 service connections used by year-round residents or which regularly serves at least 25 year-round residents.

"Non-transient, non-community water system," as defined in 35 Ill. Adm. Code 611.101, is a water system that is not a community water system and which regularly serves at least 25 of the same people over six months a year. These may include systems that provide water to schools, day care centers, government or military installations, manufacturers, hospitals or nursing homes, office buildings, and other facilities.

"Delineation." Once the State's drinking water source assessment and protection program is approved by USEPA, the State ~~must~~ will begin delineating its local assessment areas. "Delineation" is the first step in the assessment process in which the boundaries of groundwater protection areas are identified.

"Other sensitive groundwater areas." The State may also identify other areas in the State in addition to groundwater protection areas that are critical to protecting ~~USDWs~~ ~~underground sources of drinking water~~ from contamination. For the purposes of this Subpart I, the Board considers a "regulated recharge area," as defined in Section 3.67 of the Act [415 ILCS 5/3.67] and regulated pursuant to Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], to be an "other sensitive groundwater area," as intended by corresponding 40 CFR 144.86(g).

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(See 35 Ill. Adm. Code 615 through 617.) These other sensitive groundwater areas may include areas such as areas overlying sole-source aquifers; highly productive aquifers supplying private wells; continuous and highly productive aquifers at points distant from public water supply wells; areas where water supply aquifers are recharged; karst aquifers that discharge to surface reservoirs serving as public water supplies; vulnerable or sensitive hydrogeologic settings, such as glacial outwash deposits, eolian sands, and fractured volcanic rock; and areas of special concern selected based on a combination of factors, such as hydrogeologic sensitivity, depth to groundwater, significance as a drinking water source, and prevailing land-use practices.

BOARD NOTE: Derived from 40 CFR 144.86 ~~(2005)~~(2000).

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.287 Location in a Groundwater Protection Area or Another Sensitive Area

- a) A person is subject to ~~the requirements of~~ Section 704.288 if the person owns or operates an existing motor vehicle well and that person is located in a groundwater protection area or another sensitive groundwater area. If the State fails to identify these areas within the ~~federally specified~~ federally specified time frames, the additional requirements of Section 704.288 ~~must~~ will apply to all existing motor vehicle waste disposal wells within this State.

BOARD NOTE: Corresponding 40 CFR 144.87(a) provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas. The Board has interpreted "new requirements" as synonymous with "additional requirements" elsewhere in this Subpart I. Sections 14.1 through 14.6 and 17.1 through 17.4 of the Act [415 ILCS 5/14.1-14.6 and 17.1-17.4] and 35 Ill. Adm. Code 615 through 617 designate protected groundwater resources and allow the designation of other sensitive areas for protection. Further, the Illinois Groundwater Protection Act [415 ILCS 55], and the regulations adopted as 35 Ill. Adm. Code 620 under that statute, protect the quality of all groundwater resources in Illinois.

- b) Groundwater protection areas. Many segments of corresponding 40 CFR 144.87(b) set forth requirements applicable to the State only. Other requirements apply to the regulated community contingent on the regulatory status of the Illinois groundwater protection program. The Board ~~has codified~~ codifies the requirements applicable to the State in this subsection (b) for the purpose of

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informing the regulated public and clarifying the requirements on the regulated community.

- 1) For the purpose of this Subpart I, USEPA requires States to complete all local source water assessments for groundwater protection areas by January 1, 2004. Once a local assessment for a groundwater protection area is complete every existing motor vehicle waste disposal well owner in that groundwater protection area has one year to close the well or receive a permit. If the State fails to complete all local assessments for groundwater protection areas by January 1, 2004, the following may occur:
 - A) The new requirements in this Subpart I ~~will~~ apply to all existing motor vehicle waste disposal wells in the State, and the owner ~~and~~ operator of a motor vehicle waste disposal well located outside of the areas of the completed area assessments for groundwater protection areas must have closed its ~~close their~~ well or obtained ~~receive~~ a permit by January 1, 2005.
 - B) USEPA may have granted ~~grant~~ a state an extension for up to one year from the January 1, 2004 deadline if the state was ~~is~~ making reasonable progress toward completing the source water assessments for groundwater protection areas. States must have applied ~~apply~~ for the extension by June 1, 2003. If a state failed ~~fails~~ to complete the assessments for the remaining groundwater protection areas by the extended date, the rule requirements ~~will~~ apply to all motor vehicle waste disposal wells in the state, and the owner or operator ~~owners and operators~~ of a motor vehicle waste disposal well ~~wells~~ located outside of groundwater protection areas with completed assessments must have closed its ~~close their~~ well or received ~~receive~~ a permit by January 1, 2006.
- 2) The Agency must extend the compliance deadline for specific motor vehicle waste disposal wells for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the

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Act [415 ILCS 5/40].

- c) Other sensitive groundwater areas. ~~The owner or operator of an existing~~~~Existing~~ motor vehicle waste disposal well ~~owners and operators~~ within ~~another~~~~other~~ sensitive groundwater ~~area has~~~~areas have~~ until January 1, 2007 to receive a permit or close the well. If the State ~~failed~~~~fails~~ to identify these additional sensitive groundwater areas by January 1, 2004, the additional requirements of Section 704.288 ~~will~~ apply to all motor vehicle waste disposal wells in the State effective January 1, 2007, unless they are subject to a different compliance date pursuant to subsection (b) of this Section. If USEPA has granted the State an extension of the time to delineate sensitive groundwater areas, the owner or operator of an existing motor vehicle waste disposal well within a sensitive groundwater area has until January 1, 2008 to close the well or receive a permit, unless the owner or operator is subject to a different compliance date pursuant to subsection (b) of this Section. If the State has been granted an extension and fails to delineate sensitive areas by the extended date, an owner or operator has until January 1, 2008 to close the well or receive a permit, unless it is subject to a different compliance date pursuant to subsection (b) of this Section.

BOARD NOTE: Corresponding 40 CFR 144.87(c) provides that the State ~~had~~~~has~~ until January 1, 2004 to identify sensitive groundwater areas. It also provides that USEPA may extend that deadline for up to an additional year if the State is making reasonable progress towards identifying such areas and the State ~~had~~~~has~~ applied for the extension by June 1, 2003. The Board has not included these provisions relating to deadlines for State action because they impose requirements on the State, rather than on regulated entities. Further, the corresponding federal rule provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas and that "the rule requirements" apply in the event of an extension granted by USEPA and the State fails to delineate sensitive areas. The Board has interpreted "new requirements" and "rule requirements" as synonymous with "additional requirements" as used elsewhere in this Subpart I. Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620 protect groundwater resources and allow the designation of sensitive areas.

- d) Finding out if a well is in a groundwater protection area or sensitive groundwater area. The Agency must make that listing available for public inspection and copying upon request. Any interested person may contact the Illinois Environmental Protection Agency, Bureau of Water, Division of Public Water

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Supplies at 1021 North Grand Ave. East, P.O. Box 19276, Springfield, Illinois 62794-9276 (217-785-8653) to obtain information on the listing or to determine if any Class V injection well is situated in a groundwater protection area or another sensitive groundwater area.

- e) Changes in the status of the State drinking water source assessment and protection program. If the State assesses a groundwater protection area for groundwater supplying a new community water system or a new non-transient non-community water system after January 1, 2004, or if the State re-delineates the boundaries of a previously delineated groundwater protection area to include an additional area, the additional regulations of Section 704.288 would apply to any motor vehicle waste disposal well in such an area. The additional regulations apply to the affected Class V injection well one year after the State completes the local assessment for the groundwater protection area for the new drinking water system or the new re-delineated area. The Agency must extend this deadline for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

- f) If the State elects not to delineate the additional sensitive groundwater areas, the additional regulations of Section 704.288 apply to all Class V injection wells in the State, regardless of the location, on January 1, 2007, or January 1, 2008 if an extension has been granted as provided in subsection (c) of this Section, except for wells in groundwater protection areas that are subject to different compliance deadlines explained in subsection (b) of this Section.
- g) Application of requirements outside of groundwater protection areas and sensitive groundwater areas. The Agency must apply the additional requirements in Section 704.288 to an owner or operator, even if the owner's or operator's well is not located in the areas listed in subsection (a) of this Section, if the Agency determines that the application of those additional requirements is necessary to protect human health and the environment.

BOARD NOTE: Any Agency determination to apply the additional requirements of Section 704.288 is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40]. The Board has omitted certain segments of corresponding 40

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CFR 144.87 that encouraged State actions, since those segments did not impose requirements on the regulated community.

BOARD NOTE: Derived from 40 CFR 144.87 ~~(2005)(2000)~~.

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.288 Additional Requirements

Additional requirements are as follows:

a) Additional Requirements for Large-Capacity Cesspools Statewide. See Section 704.285 to determine the applicability of these additional requirements.

1) If the cesspool is existing (operational or under construction by April 5, 2000), the following requirements apply:

A) The owner or operator must ~~have closed~~~~close~~ the well by April 5, 2005.

B) The owner or operator must ~~have notified~~~~notify~~ the Agency of its intent to close the well at least 30 days prior to closure.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells." Although the form "Preclosure Notification for Closure of Injection Wells" is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

2) If the cesspool is new or converted (construction not started before April 5, 2000) it is prohibited.

BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.

b) Additional Requirements for Motor Vehicle Waste Disposal Wells. See Section 704.285 to determine the applicability of these additional requirements.

1) If the motor vehicle waste disposal well is existing (operational or under

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construction by April 5, 2000) the following applies:

- A) If the well is in a groundwater protection area, the owner or operator must close the well or obtain a permit within one year after the completion of the local source water assessment; the Agency must extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;
- B) If the well is in an other sensitive groundwater area, the owner or operator must close the well or obtain a permit by January 1, 2007; the Agency may extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;
- C) If the owner or operator plans to seek a waiver from the ban and apply for a permit by the date the owner or operator submits its permit application, the owner or operator must meet the maximum contaminant levels (MCLs) for drinking water, set forth in 35 Ill. Adm. Code 611, at the point of injection while the permit application is under review, if the owner or operator chooses to keep operating the well;
- D) If the owner or operator receives a permit, the owner or operator must comply with all permit conditions by the dates specified in its permit, if the owner or operator chooses to keep operating the well, including requirements to meet MCLs and other ~~health-based~~ health-based standards at the point of injection, follow best management practices, and monitor the injectate and sludge quality;
- E) If the State has not completed all of its local assessments by January 1, 2004 (or by the extended date if the State has obtained an extension, as described in Section 704.287), and the well is outside an area with a completed assessment, the owner or operator must ~~have closed~~ close the well or ~~obtained~~ obtain a permit by

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January 1, 2005, unless the State ~~obtained~~obtains an extension, as described in Section 704.287(b), in which case the deadline ~~was~~is January 1, 2006; the Agency must ~~have extended~~extend the closure deadline, but not the permit application deadline, for up to one year if it ~~determined~~determines that the most efficient compliance option ~~was~~is connection to a sanitary sewer or installation of new treatment technology and the extension ~~was~~is necessary to implement the compliance option;

- F) If the State ~~had~~has not delineated other sensitive groundwater areas by January 1, 2004, and the well is outside of an area with a completed assessment, the owner or operator must close the well or obtain a permit regardless of its location by January 1, 2007, unless the State obtains an extension as described in Section 704.287(c), in which case the deadline is January 2008; or
- G) If the owner or operator plans to close its well, the owner or operator must notify the Agency of its intent to close the well (this includes closing the well prior to conversion) by at least 30 days prior to closure.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells." Although the form "Preclosure Notification for Closure of Injection Wells" is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

BOARD NOTE: Any Agency determination of the most efficient compliance option under subsection (b)(1)(A), (b)(1)(B), or (b)(1)(E) of this Section is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

- 2) If the motor vehicle waste disposal well is new or converted (construction not started before April 5, 2000) it is prohibited.

BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.

BOARD NOTE: Derived from 40 CFR 144.88 (2000).

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(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

Section 704.289 Closure of a Class V Injection Well

The following describes the requirements for closing or converting a Class V injection well:

- a) Closure.
 - 1) Prior to closing a Class V large-capacity cesspool or motor vehicle waste disposal well, the owner or operator must plug or otherwise close the well in a manner that complies with the prohibition of fluid movement set forth in Section 704.122 and summarized in Section 704.282(a). The owner or operator must also dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable federal, State, and local regulations and requirements, as described in Section 704.282(b).
 - 2) Closure does not mean that the owner or operator needs to cease operations at its facility, only that the owner or operator needs to close its well. A number of alternatives are available for disposing of waste fluids. Examples of alternatives that may be available to motor vehicle stations include the following: recycling and reusing wastewater as much as possible; collecting and recycling petroleum-based fluids, coolants, and battery acids drained from vehicles; washing parts in a self-contained, recirculating solvent sink, with spent solvents being recovered and replaced by the supplier; using absorbents to clean up minor leaks and spills, and placing the used materials in approved waste containers and disposing of them properly; using a wet vacuum or mop to pick up accumulated rain or snow melt, and if allowed, connecting floor drains to a municipal sewer system or holding tank, and if allowed, disposing of the holding tank contents through a publicly owned treatment works (POTW). The owner or operator should check with the POTW that it might use to see if the POTW would accept the owner's or operator's wastes. Alternatives that may be available to owners and operators of a large-capacity cesspool include the following: conversion to a septic system; connection to a sewer; or installation of an on-site treatment unit.
- b) Conversions. In limited cases, the Agency may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class

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V well. Motor vehicle wells may only be converted if the ~~following~~ two conditions of subsections (b)(1) and (b)(2) of this Section are fulfilled, subject to the conditions of subsection (b)(3) of this Section: ~~(1) all motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and (2) injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal. The use of a semi permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well.~~

- 1) All motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and
- 2) Injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal.
- 3) The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V injection well.

BOARD NOTE: Derived from 40 CFR 144.89 ~~(2005), as added at 64 Fed. Reg. 68572 (December 7, 1999).~~

(Source: Amended at 31 Ill. Reg. 605, effective December 20, 2006)

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- 1) Heading of the Part: Procedures for Permit Issuance
- 2) Code Citation: 35 Ill. Adm. Code 705
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
705.101	Amend
705.104	New Section
705.128	Amend
705.143	Amend
705.300	New Section
705.301	New Section
705.302	New Section
705.303	New Section
705.304	New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted rulemakings, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 6938; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive

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effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 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 this rulemaking: The amendments to Part 705 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 705 implement segments of the 9/8/05 and 10/13/05 federal amendments. The amendments incorporate elements of the Standardized Permit Rule in to the permit procedure provisions of the Illinois regulations. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

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Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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

PART 705
PROCEDURES FOR PERMIT ISSUANCE

SUBPART A: GENERAL PROVISIONS

Section	
705.101	Scope and Applicability
705.102	Definitions
705.103	Computation of Time
<u>705.104</u>	<u>Electronic Reporting</u>

SUBPART B: PERMIT APPLICATIONS

Section	
705.121	Permit Application
705.122	Completeness
705.123	Incomplete Applications
705.124	Site Visit
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705.127	Consolidation of Permit Processing
705.128	Modification or Reissuance of Permits

SUBPART C: APPLICATION REVIEW

Section	
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705.142	Statement of Basis
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705.144	Administrative Record for Draft Permits or Notices of Intent to Deny

SUBPART D: PUBLIC NOTICE

Section	
705.161	When Public Notice Must Be Given

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705.162	Timing of Public Notice
705.163	Methods of Public Notice
705.164	Contents of Public Notice
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SUBPART E: PUBLIC COMMENT

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705.181	Public Comments and Requests for Public Hearings
705.182	Public Hearings
705.183	Obligation to Raise Issues and Provide Information
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SUBPART F: PERMIT ISSUANCE

Section	
705.201	Final Permit Decision
705.202	Stay of Permit Conditions upon Appeal
705.203	Stay for New Application or upon Untimely Application for Renewal (Repealed)
705.204	Stay upon Reapplication or for Modification (Repealed)
705.205	Stay Following Interim Status (Repealed)
705.210	Agency Response to Comments
705.211	Administrative Record for Final Permits or Letters of Denial
705.212	Appeal of Agency Permit Determinations

SUBPART G: PROCEDURE FOR RCRA STANDARDIZED PERMIT

<u>Section</u>	
<u>705.300</u>	<u>General Information About RCRA Standardized Permits</u>
<u>705.301</u>	<u>Applying for a RCRA Standardized Permit</u>
<u>705.302</u>	<u>Issuance of a RCRA Standardized Permit</u>
<u>705.303</u>	<u>Public Participation in the RCRA Standardized Permit Process</u>
<u>705.304</u>	<u>Modifying a RCRA Standardized Permit</u>

705.APPENDIX A	Procedures for Permit Issuance
705.APPENDIX B	Modification Process
705.APPENDIX C	Application Process
705.APPENDIX D	Application Review Process
705.APPENDIX E	Public Comment Process
705.APPENDIX F	Permit Issuance or Denial

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

SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective May 17, 1982; amended in R82-19, at 7 Ill. Reg. 14352, effective May 17, 1982; amended in R84-9, at 9 Ill. Reg. 11894, effective July 24, 1985; amended in R89-2 at 14 Ill. Reg. 3082, effective February 20, 1990; amended in R94-5 at 18 Ill. Reg. 18265, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9906, effective June 27, 1995; amended in R03-7 at 27 Ill. Reg. 3675, effective February 14, 2003; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 706, effective December 20, 2006.

SUBPART A: GENERAL PROVISIONS

Section 705.101 Scope and Applicability

- a) This Part sets forth procedures that the Illinois Environmental Protection Agency (Agency) must follow in issuing RCRA (Resource Conservation and Recovery Act) and UIC (Underground Injection Control) permits. This Part also specifies rules on effective dates of permits and stays of contested permit conditions.
- b) This Part provides for a public comment period and a hearing in some cases. The permit applicant and any other participants must raise issues during this proceeding to preserve issues for effective Board review, as required by Section 705.183.
- c) Board review of permit issuance or denial is pursuant to 35 Ill. Adm. Code 105. Board review is restricted to the record that was before the Agency when the permit was issued, as required by Sections 40(a) and 40(b) of the Environmental Protection Act [\[415 ILCS 5/40\(a\) and \(b\)\]](#).
- d) [The provisions of](#) 35 Ill. Adm. Code 702, 703, and 704 contain rules on UIC and RCRA permit applications, permit conditions, and related matters.

(Source: Amended at 31 Ill. Reg. 706, effective December 20, 2006)

[Section 705.104 Electronic Reporting](#)

[The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.](#)

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BOARD NOTE: Derived from 40 CFR 3 and 145.11(a)(33), as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 706, effective December 20, 2006)

SUBPART B: PERMIT APPLICATIONS

Section 705.128 Modification or Reissuance of Permits

- a) The Agency may modify or reissue a permit either at the request of any interested person (including the permittee) or on its own initiative. However, the Agency may only modify or reissue a permit for the reasons specified in 35 Ill. Adm. Code 704.261 through 704.263 (UCI) or 35 Ill. Adm. Code 703.270 through 703.273 (RCRA). A request for permit modification or reissuance must be made in writing, must be addressed to the Agency (Division of Land Pollution Control), and must contain facts or reasons supporting the request.
- b) If the Agency determines that a request for modification or reissuance is not justified, it must send the requester a brief written response giving a reason for the determination. A denial of a request for modification or reissuance is not subject to public notice, comment, or public hearing requirements. The requester may appeal a denial of a request to modify or reissue a permit to the Board pursuant to 35 Ill. Adm. Code 105.
- c) Agency Modification or Reissuance Procedures.
 - 1) If the Agency tentatively decides to initiate steps to modify or reissue a permit pursuant to~~under~~ this Section and 35 Ill. Adm. Code 704.261 through 704.263 or 35 Ill. Adm. Code 703.270 through 703.273 (other than 35 Ill. Adm. Code 703.272(c)), after giving public notice pursuant to Section 705.161(a)(1), as though an application had been received, it must prepare a draft permit pursuant to~~under~~ Section 705.141 incorporating the proposed changes. The Agency may request additional information and may require the submission of an updated permit application. For reissued permits, other than those reissued under 35 Ill. Adm. Code 703.272(c), the Agency must require the submission of a new application. For permits reissued under 35 Ill. Adm. Code 703.272(c), the Agency and the permittee must comply with the appropriate requirements in Subpart G of 35 Ill. Adm. Code 705~~must require the submission of a new application.~~

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- 2) In a permit modification proceeding ~~pursuant to~~ this Section, only those conditions to be modified must be reopened when a new draft permit is prepared. When a permit is to be reissued ~~pursuant to~~ this Section, the entire permit is reopened just as if it had expired. During any reissuance proceeding, including any appeal to the Board, the permittee must comply with all conditions of its existing permit until a new final permit is reissued.
- 3) "Minor modifications," as defined in 35 Ill. Adm. Code 704.264, and "Class 1 and 2 modifications," as defined in 35 Ill. Adm. Code 703.281 and 703.282, are not subject to ~~the requirements of~~ this Section.
- d) To the extent that the Agency has authority to reissue a permit, it must prepare a draft permit or notice of intent to deny in accordance with Section 705.141 if it decides to do so.
- e) The Agency or any person may seek the revocation of a permit in accordance with Title VIII of the Environmental Protection Act [\[415 ILCS 5/Title VIII\]](#) and the procedure of 35 Ill. Adm. Code 103. Revocation may only be sought for those reasons specified in 35 Ill. Adm. Code 702.186(a) through (d).

BOARD NOTE: Derived from 40 CFR 124.5 [\(2005\), as amended at 70 Fed. Reg. 53420 \(Sep. 8, 2005\)](#)~~(2002)~~.

(Source: Amended at 31 Ill. Reg. 706, effective December 20, 2006)

SUBPART C: APPLICATION REVIEW

Section 705.143 Fact Sheet

- a) A fact sheet must be prepared for every draft permit for a major HWM or a major UIC facility or activity, and for every draft permit or notice of intent to deny that the Agency finds is the subject of widespread public interest or raises major issues. The fact sheet must briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The Agency must send this fact sheet to the applicant and, on request, to any other person.
- b) The fact sheet must include the following, when applicable:

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- 1) A brief description of the type of facility or activity that is the subject of the draft permit;
- 2) The type and quantity of wastes, fluids or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;
- 3) A brief summary of the basis for refusing to grant a permit or for imposing each draft permit condition including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record as defined by Section 705.144;
- 4) Reasons why any requested schedules of compliance or other alternatives to required standards do or do not appear justified;
- 5) A description of the procedures for reaching a final decision on the draft permit including the following:
 - A) The beginning and ending dates of the comment period pursuant to ~~under~~ Subpart D of this Part, and the address where comments will be received;
 - B) Procedures for requesting a hearing, and the nature of that hearing; and
 - C) Any other procedures by which the public may participate in the final decision.
- 6) The name and telephone number of a person to contact for additional information.

BOARD NOTE: Derived from 40 CFR 124.8 (2002).

(Source: Amended at 31 Ill. Reg. 706, effective December 20, 2006)

SUBPART G: PROCEDURE FOR RCRA STANDARDIZED PERMIT

Section 705.300 General Information About RCRA Standardized Permits

- a) RCRA standardized permit. A RCRA standardized permit is a special form of

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RCRA permit that may consist of two parts: a uniform portion that the Agency issues in all cases, and a supplemental portion that the Agency issues on a case-by-case basis at its discretion. The term "RCRA standardized permit" is defined in 35 Ill. Adm. Code 702.110.

- 1) The uniform portion. The uniform portion of a RCRA standardized permit consists of terms and conditions, relevant to the units operated at a facility, that appear in 35 Ill. Adm. Code 727 (Standards for Owners and Operators of Hazardous Waste Facilities Operating under a RCRA Standardized Permit). If an owner or operator intends to operate under the RCRA standardized permit, it must comply with the nationally applicable terms and conditions of 35 Ill. Adm. Code 727.
- 2) The supplemental portion. The supplemental portion of a RCRA standardized permit consists of site-specific terms and conditions, beyond those of the uniform portion, that the Agency may impose on a particular facility, as necessary to adequately protect human health and the environment. If the Agency issues a supplemental portion, the owner or operator must comply with the Agency-imposed site-specific terms and conditions.
 - A) When required pursuant to 35 Ill. Adm. Code 727.190(1), provisions to implement corrective action must be included in the supplemental portion.
 - B) Unless otherwise specified, the supplemental permit terms and conditions apply to a facility in addition to the terms and conditions of the uniform portion of the RCRA standardized permit and not in place of any of those terms and conditions.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.200, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Eligibility for a RCRA standardized permit.
 - 1) A facility owner or operator may be eligible for a RCRA standardized permit if it engages in either of the following:
 - A) It generates hazardous waste and then stores or non-thermally treats the hazardous waste on-site in containers, tanks, or

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containment buildings; or

B) It receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then it stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings.

C) In either case, the Agency must inform the owner or operator of its eligibility when a decision is made on its permit.

2) This subsection (b)(2) corresponds with 40 CFR 124.201(b), which USEPA has marked "reserved." This statement maintains structural consistency with the corresponding federal rule.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.201, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 706, effective December 20, 2006)

Section 705.301 Applying for a RCRA Standardized Permit

a) Applying for a RCRA standardized permit.

1) A facility owner or operator must follow the requirements in this Subpart, as well as those in 35 Ill. Adm. Code 703.191 and Subparts B and J of 35 Ill. Adm. Code 703.

2) The owner or operator must submit to the Agency a written Notice of Intent to operate under the RCRA standardized permit. The owner or operator must also include the information and certifications required pursuant to Subpart J of 35 Ill. Adm. Code 703.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.202, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Switching from an individual RCRA permit to a RCRA standardized permit. Where all units in the RCRA permit are eligible for a RCRA standardized permit, the owner or operator may request that the Agency reissue its individual permit as a RCRA standardized permit. Where only some of the units in the RCRA permit are eligible for the RCRA standardized permit, the owner or operator may request

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that the Agency modify its individual permit to no longer include those units and issue a RCRA standardized permit for those units. The Agency must issue any RCRA standardized permit (or reissue as a RCRA standardized permit) in accordance with Section 705.302(a).

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.203, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 706, effective December 20, 2006)

Section 705.302 Issuance of a RCRA Standardized Permit

- a) Agency preparation of a draft RCRA standardized permit.
- 1) The Agency must review the Notice of Intent and supporting information submitted by the facility owner or operator.
 - 2) The Agency must determine whether the facility is or is not eligible to operate under the RCRA standardized permit.
 - A) If the facility is eligible for the RCRA standardized permit, the Agency must propose terms and conditions, if any, to include in a supplemental portion. If the Agency determines that these terms and conditions are necessary to adequately protect human health and the environment, and the terms and conditions cannot be imposed, the Agency must tentatively deny coverage under the RCRA standardized permit.
 - B) If the facility is not eligible for the RCRA standardized permit, the Agency must tentatively deny coverage under the RCRA standardized permit. Cause for ineligibility may include, but is not limited to, the following:
 - i) A failure of owner or operator to submit all the information required pursuant to 35 Ill. Adm. Code 703.351(b).
 - ii) Information submitted that is required pursuant to 35 Ill. Adm. Code 703.351(b) that is determined to be inadequate.
 - iii) The facility does not meet the eligibility requirements (its

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- activities are outside the scope of the RCRA standardized permit).
- iv) A demonstrated history of significant non-compliance with applicable requirements.
- v) Permit conditions cannot ensure adequate protection of human health and the environment.
- 3) The Agency must prepare its draft permit decision within 120 days after receiving the Notice of Intent and supporting documents from a facility owner or operator. The Agency's tentative determination pursuant to this Section to deny or grant coverage under the RCRA standardized permit, including any proposed site-specific conditions in a supplemental portion, constitutes a draft permit decision. The Agency is allowed a one time extension of 30 days to prepare the draft permit decision. When the use of the 30-day extension is anticipated, the Agency must inform the permit applicant during the initial 120-day review period. Reasons for an extension may include, but are not limited to, needing to complete review of submissions with the Notice of Intent (e.g., closure plans, waste analysis plans, etc. for facilities seeking to manage hazardous waste generated off-site).
- 4) Many requirements in this Part and 35 Ill. Adm. Code 702 apply to processing the RCRA standardized permit application and preparing the Agency's draft permit decision. For example, the Agency's draft permit decision must be accompanied by a statement of basis or fact sheet and must be based on the administrative record. In preparing the Agency's draft permit decision, the following provisions of this Part and 35 Ill. Adm. Code 702 apply (subject to the following modifications):
- A) Section 705.101 (Scope and Applicability): all subsections apply.
- B) 35 Ill. Adm. Code 702.110 (Definitions): all definitions apply.
- C) Sections 705.121 (Permit Application) and 705.124 (Site Visit): all subsections apply.
- D) Section 705.127 (Consolidation of Permit Processing): applies.

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- E) Section 705.128 (Modification or Reissuance of Permits): does not apply.
- F) Section 705.141 (Draft Permits): does not apply to the RCRA standardized permit; procedures in this Subpart G apply instead.
- G) Section 705.142 (Statement of Basis): applies.
- H) Section 705.143 (Fact Sheet): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D of this Part.
- D) Section 705.144 (Administrative Record for Draft Permits or Notices of Intent to Deny): all subsections apply.
- J) Subpart D of this Part (Public Notice): only Section 705.163(a)(4) and (a)(5)(A) applies to the RCRA standardized permit. Most of Subpart D of this Part does not apply to the RCRA standardized permit; Section 705.303(a) through (c) applies instead.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.204, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Preparation of a final RCRA standardized permit. The Agency must consider all comments received during the public comment period (see Section 705.303(b)) in making its final permit decision. In addition, many requirements in this Part and 35 Ill. Adm. Code 702 apply to the public comment period, public hearings, and preparation of the Agency's final permit decision. In preparing a final permit decision, the following provisions of this Part and 35 Ill. Adm. Code 702 apply (subject to the following modifications):
 - 1) Section 705.101 (Scope and Applicability): all subsections apply.
 - 2) 35 Ill. Adm. Code 702.110 (Definitions): all definitions apply.
 - 3) Section 705.181 (Public Comments and Requests for Public Hearings): Section 705.181 does not apply to the RCRA standardized permit; the procedures in Section 705.303(b) apply instead.

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- 4) Section 705.182 (Public Hearings): Section 705.182(b), (c), and (d) applies.
- 5) Section 705.183 (Obligation to Raise Issues and Provide Information): all subsections apply, however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D of this Part.
- 6) Section 705.184 (Reopening of the Public Comment Period): all of subsections apply, however, in the context of the RCRA standardized permit, the reference in Section 705.184(b)(1) to preparation of a draft permit is Section 705.302(a) instead of Section 705.141; the reference in Section 705.184(b)(3) to reopening or extending the comment period is Section 705.303(b); the reference in Section 705.183(c) to the public notice is Section 705.303(a) instead of Subpart D of this Part.
- 7) Section 705.201 (Final Permit Decision): all subsections apply, however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D of this Part.
- 8) Section 705.202 (Stay of Permit Conditions upon Appeal): all subsections apply.
- 9) Section 705.210 (Agency Response to Comments): Section 705.210 does not apply to the RCRA standardized permit; procedures in Section 705.303(c) apply instead.
- 10) Section 705.211 (Administrative Record for Final Permit or Letters of Denial): all subsections apply, however, the reference to response to comments is Section 705.303(c) instead of Section 705.210.
- 11) Section 705.212 (Appeal of Agency Permit Determinations): all of Section 705.212 applies.
- 12) Section 705.103 (Computation of Time): all subsections apply.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.205, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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- c) When a facility owner or operator must apply for an individual permit.
- 1) Instances in which the Agency may determine that a facility is not eligible for the RCRA standardized permit include, but are not limited to, the following:
 - A) The facility does not meet the criteria in Section 705.300(b).
 - B) The facility has a demonstrated history of significant non-compliance with regulations or permit conditions.
 - C) The facility has a demonstrated history of submitting incomplete or deficient permit application information.
 - D) The facility has submitted incomplete or inadequate materials with the Notice of Intent (submitted pursuant to Section 705.301(a)(2)).
 - 2) If the Agency determines that a facility is not eligible for the RCRA standardized permit, the Agency must inform the facility owner or operator that it must apply for an individual permit.
 - 3) The Agency may require any facility that has a RCRA standardized permit to apply for and obtain an individual RCRA permit. Any interested person may petition the Agency to take action pursuant to this subsection (c)(3). Instances in which the Agency may require an individual RCRA permit include, but are not limited to, the following:
 - A) The facility is not in compliance with the terms and conditions of the standardized RCRA permit.
 - B) Circumstances have changed since the time the facility owner or operator applied for the RCRA standardized permit, so that the facility's hazardous waste management practices are no longer appropriately controlled under the RCRA standardized permit.
 - 4) The Agency may require any facility authorized by a RCRA standardized permit to apply for an individual RCRA permit only if the Agency has notified the facility owner or operator in writing that an individual permit application is required. The Agency must include in this notice a brief statement of the reasons for its decision, a statement setting a deadline for

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the owner or operator to file the application, and a statement that, on the effective date of the individual RCRA permit, the facility's RCRA standardized permit automatically terminates. The Agency may grant additional time upon request from the facility owner or operator.

- 5) When the Agency issues an individual RCRA permit to an owner or operator otherwise subject to a standardized RCRA permit, the RCRA standardized permit for that facility will automatically cease to apply on the effective date of the individual permit.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.206, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). An owner or operator authorized to operate under a RCRA standardized permit that is required by the Agency to submit an application for an individual permit pursuant to this subsection (c) may appeal that Agency determination before the Board pursuant to Section 40 of the Act [415 ILCS 5/40] and 35 Ill. Adm. Code 101 and 105.

(Source: Added at 31 Ill. Reg. 706, effective December 20, 2006)

Section 705.303 Public Participation in the RCRA Standardized Permit Process

- a) Requirements for public notices.
- 1) The Agency must provide public notice of its draft permit decision and must provide an opportunity for the public to submit comments and request a hearing on that decision. The Agency must provide the public notice to the following persons:
- A) The applicant;
- B) Any other agency that the Agency knows has issued or is required to issue a RCRA permit for the same facility or activity (including USEPA when the draft permit is prepared by the State);
- C) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, Illinois Historic Preservation Agency, including any affected states;
- D) Everyone on the facility mailing list developed according to the

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requirements in Section 705.163(a)(4); and

- E) Any units of local government having jurisdiction over the area where the facility is proposed to be located and to each State agency having any authority under State law with respect to the construction or operation of the facility.
- 2) The Agency must issue the public notice according to the following methods:
- A) Publication in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations;
- B) In a manner constituting legal notice to the public under State law; and
- C) Any other method reasonably calculated to give actual notice of the draft permit decision to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.
- 3) The Agency must include the following information in the public notice:
- A) The name and telephone number of the contact person at the facility.
- B) The name and telephone number of the Agency's contact office, and a mailing address to which people may direct comments, information, opinions, or inquiries.
- C) An address to which people may write to be put on the facility mailing list.
- D) The location where people may view and make copies of the draft RCRA standardized permit and the Notice of Intent and supporting documents.
- E) A brief description of the facility and proposed operations, including the address or a map (for example, a sketched or copied street map) of the facility location on the front page of the notice.

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- F) The date that the facility owner or operator submitted the Notice of Intent and supporting documents.
- 4) At the same time that the Agency issues the public notice pursuant to this Section, it must place the draft RCRA standardized permit (including both the uniform portion and the supplemental portion, if any), the Notice of Intent and supporting documents, and the statement of basis or fact sheet in a location accessible to the public in the vicinity of the facility or at the local Agency office.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.207, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Opportunities for public comment and hearing on a draft permit decision.
- 1) The public notice that the Agency issues pursuant to Section 705.303(a) must allow at least 45 days for interested persons to submit written comments on its draft permit decision. This time is referred to as the public comment period. The Agency must automatically extend the public comment period to the close of any public hearing pursuant to this subsection (b). The hearing officer may also extend the comment period by so stating at the hearing.
- 2) During the public comment period, any interested person may submit written comments on the draft permit and may request a public hearing. Any request for a public hearing must be submitted to the Agency in writing. The request for a public hearing must state the nature of the issues that the requestor proposes to raise during the hearing.
- 3) The Agency must hold a public hearing whenever it receives a written notice of opposition to a RCRA standardized permit and a request for a public hearing within the public comment period pursuant to subsection (b)(1) of this Section. The Agency may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.
- 4) Whenever possible, the Agency must schedule a hearing pursuant to this subsection (b) at a location convenient to the nearest population center to the facility. The Agency must give public notice of the hearing at least 30

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days before the date set for the hearing. (The Agency may give the public notice of the hearing at the same time it provides public notice of the draft permit, and the Agency may combine the two notices.)

- 5) The Agency must give public notice of the hearing according to the methods in Section 705.303(a)(1) and (a)(2). The hearing must be conducted according to the procedures in Section 705.182(b), (c), and (d).
- 6) In their written comments and during the public hearing, if held, interested persons may provide comments on the draft permit decision. These comments may include, but are not limited to, the facility's eligibility for the RCRA standardized permit, the tentative supplemental conditions proposed by the Agency, and the need for additional supplemental conditions.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.208, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Requirements for responding to comments.
 - 1) At the time the Agency issues a final RCRA standardized permit, it must also respond to comments received during the public comment period on the draft permit. The Agency's response must do each of the following:
 - A) It must specify which additional conditions (i.e., those in the supplemental portion), if any, the Agency changed in the final permit, and the reasons for each change.
 - B) It must briefly describe and respond to all significant comments on the facility's ability to meet the general requirements (i.e., those terms and conditions in the uniform portion) and all significant comments on any additional conditions necessary to adequately protect human health and the environment that are raised during the public comment period or during the hearing.
 - C) It must make the comments and responses accessible to the public.
 - 2) The Agency may request additional information from the facility owner or operator or inspect the facility if it needs additional information to adequately respond to significant comments or to make decisions about

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conditions that it may need to add to the supplemental portion of the RCRA standardized permit.

- 3) The Agency must include in the administrative record for its final permit decision any documents cited in the response to comments. If new points are raised or new material supplied during the public comment period, the Agency may document its response to those matters by adding new materials to the administrative record.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.209, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Appeal of a final RCRA standardized permit by an interested party in the permit process. An interested party may petition the Board for administrative review of the Agency's final permit decision, including the Agency's decision that the facility is eligible for the RCRA standardized permit, according to the procedures of Section 705.212. However, the terms and conditions of the uniform portion of the RCRA standardized permit are not subject to administrative review pursuant to this subsection (d).

BOARD NOTE: Subsection (d) is derived from 40 CFR 124.210, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 706, effective December 20, 2006)

Section 705.304 Modifying a RCRA Standardized Permit

- a) Permissible types of changes an owner or operator may make to its RCRA standardized permit. A facility owner or operator may make a routine change, a routine change with prior Agency approval, or a significant change. For the purposes of this subsection (a), the following definitions apply:

"Routine change" is any change to the RCRA standardized permit that qualifies as a Class 1 permit modification (without prior Agency approval) pursuant to Appendix A to 35 Ill. Adm. Code 703.

"Routine change with prior Agency approval" is a change to the RCRA standardized permit that would qualify as a class 1 modification with prior agency approval, or a Class 2 permit modification pursuant to Appendix A to 35 Ill. Adm. Code 703.

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"Significant change" is any change to the RCRA standardized permit that falls into one of the following categories:

It qualifies as a Class 3 permit modification pursuant to Appendix A to 35 Ill. Adm. Code 703;

It is not explicitly identified in Appendix A to 35 Ill. Adm. Code 703; or

It amends any terms or conditions in the supplemental portion of the RCRA standardized permit.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.211, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Procedures to make routine changes.
- 1) An owner or operator can make routine changes to the RCRA standardized permit without obtaining approval from the Agency. However, the owner or operator must first determine whether the routine change it will make amends the information it submitted to the Agency pursuant to 35 Ill. Adm. Code 703.351(b) with its Notice of Intent to operate under the RCRA standardized permit.
 - 2) If the routine changes that the owner or operator makes amend the information it submitted pursuant to 35 Ill. Adm. Code 703.351(b) with its Notice of Intent to operate under the RCRA standardized permit, then before the owner or operator makes the routine changes it must do both of the following:
 - A) It must submit to the Agency the revised information pursuant to 35 Ill. Adm. Code 703.351(b)(1); and
 - B) It must provide notice of the changes to the facility mailing list and to State and local governments in accordance with the procedures in Section 705.163(a)(4) and (a)(5).

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.212, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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- c) Procedures for routine changes with prior Agency approval.
- 1) Routine changes to the RCRA standardized permit may only be made with the prior written approval of the Agency.
 - 2) The owner or operator must also follow the procedures in subsections (b)(2)(A) and (b)(2)(B) of this Section.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.213, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Procedures the owner or operator must follow to make significant changes.
- 1) The owner or operator must first provide notice of and conduct a public meeting.
 - A) Public meeting. The owner or operator must hold a meeting with the public to solicit questions from the community and inform the community of its proposed modifications to its hazardous waste management activities. The owner or operator must post a sign-in sheet or otherwise provide a voluntary opportunity for people attending the meeting to provide their names and addresses.
 - B) Public notice. At least 30 days before the owner or operator plans to hold the meeting, it must issue a public notice in accordance with 35 Ill. Adm. Code 703.191(d).
 - 2) After holding the public meeting, the owner or operator must submit a modification request to the Agency that provides the following information:
 - A) It must describe the exact changes that the owner or operator wants and whether the changes are to information that the owner or operator provided pursuant to 35 Ill. Adm. Code 703.351(b) or to terms and conditions in the supplemental portion of its RCRA standardized permit;
 - B) It must explain why the modification is needed; and
 - C) It must include a summary of the public meeting held pursuant to

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subsection (d)(1) of this Section, along with the list of attendees and their addresses and copies of any written comments or materials they submitted at the meeting.

- 3) Once the Agency receives an owner's or operator's modification request, it must make a tentative determination within 120 days to approve or disapprove the request. The Agency is allowed a one time extension of 30 days to prepare the draft permit decision. When the use of the 30-day extension is anticipated, the Agency should inform the permit applicant during the initial 120-day review period.
- 4) After the Agency makes its tentative determination, the procedures in Sections 705.302(b) and 705.303 for processing an initial request for coverage under the RCRA standardized permit apply to making the final determination on the modification request.

BOARD NOTE: Subsection (d) is derived from 40 CFR 124.214, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 31 Ill. Reg. 706, effective December 20, 2006)

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- 1) Heading of the Part: Hazardous Waste Management System: General
- 2) Code Citation: 35 Ill. Adm. Code 720
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
720.101	Amend
720.103	Amend
720.104	New Section
720.110	Amend
720.111	Amend
720.120	Amend
720.140	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The amendments include amendments to incorporations by reference. Section 720.111 is the centralized incorporations by reference provision for all of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739. A principal amendment is the addition of an incorporation of the new federal Cross-Media Electronic Reporting Rule of 40 CFR 3 by reference, in specific, significant segments. Significant also are a general update of the existing incorporations of segments of the Code of Federal Regulations by reference to the most recent editions available, including Federal Register references to later amendments.
- 8) Statement of Availability: The adopted rulemakings, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 6961; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18

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summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by the Joint Committee on Administrative Rules (JCAR).

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 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 the Rulemaking: The amendments to Part 720 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

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Specifically, the amendments to Part 720 implement segments of the 8/5/05, 9/8/05, 10/12/05 and 10/13/05 federal amendments. The amendments incorporate general elements (such as definitions, incorporations by reference, etc.) of the Mercury-Containing Device Rule, the Standardized Permit Rule, and the amendments to the Hazardous Waste Combustor Rule into the general RCRA Subtitle C and UIC regulations. They further add a provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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NOTICE OF ADOPTED AMENDMENTS

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

PART 720

HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: DEFINITIONS AND REFERENCES

Section

720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations
720.131	Solid Waste Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141	Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities

720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006.

SUBPART A: GENERAL PROVISIONS

POLLUTION CONTROL BOARD

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Section 720.101 Purpose, Scope, and Applicability

- a) This Part provides definitions of terms, general standards and overview information applicable to 35 Ill. Adm. Code 720 through ~~726~~, 728, 733, [738](#), and 739.
- b) In this Part:
 - 1) Section 720.102 sets forth the rules that the Board and the Agency will use in making information it receives available to the public and sets forth the requirements that a generator, transporter, or owner or operator of a treatment, storage, or disposal facility must follow to assert claims of business confidentiality with respect to information that is submitted to the Board or the Agency [the purposes of compliance with](#) ~~under~~ 35 Ill. Adm. Code 720 through ~~725 and~~ 728, [733](#), [738](#), and [739](#).
 - 2) Section 720.103 establishes rules of grammatical construction for [the purposes of compliance with](#) 35 Ill. Adm. Code 720 through ~~726~~, 728, [733](#), [738](#), and 739.
 - 3) Section 720.110 defines terms that are used in 35 Ill. Adm. Code 720 through ~~726~~, 728, 733, [738](#), and 739.

(Source: Amended at 31 Ill. Reg. 730, effective December 20, 2006)

Section 720.103 Use of Number and Gender

As used in 35 Ill. Adm. Code 720 through ~~726~~, 728, 733, [738](#), and 739:

- a) Words in the masculine gender also include the feminine and neuter genders;
- b) Words in the singular include the plural; and
- c) Words in the plural include the singular.

(Source: Amended at 31 Ill. Reg. 730, effective December 20, 2006)

Section 720.104 Electronic Reporting

- a) [Scope and Applicability.](#)

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- 1) The USEPA, the Board, or the Agency may allow for the submission of any document as an electronic document in lieu of a paper document. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:
 - A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
 - B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.

- 2) Electronic document submission under this Section can occur only as follows:
 - A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations ; or
 - B) For submissions of documents to the State, submissions may occur only under the following circumstances:
 - i) As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has not been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;
 - ii) As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting

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application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board or the Agency may use that system until USEPA disapproves its use in writing; or

iii) The Board or the Agency may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.

- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) of this Section:
- A) Any document submitted via facsimile;
 - B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
 - C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(2)(B)(iii) of this Section, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document, in lieu of a paper document, the Board or the Agency must

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similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
- 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 720.111(b); and
 - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A) of this Section.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- d) Procedures for submission of electronic documents in lieu of paper documents to the Board or the Agency.
- 1) The Board or the Agency may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/Art. 5].
 - 2) The Board or the Agency may accept electronic documents under this Section only as provided in subsection (a)(2)(B) of this Section.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

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e) Effects of submission of an electronic document in lieu of paper documents.

- 1) If a person who submits a document as an electronic document fails to comply with the requirements this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
- 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
- 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
- 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3.4 and 3.2000(c), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:

- 1) The Administrative Procedure Act [5 ILCS 100];
- 2) The Freedom of Information Act [5 ILCS 140];
- 3) The State Records Act [5 ILCS 160];
- 4) The Electronic Commerce Security Act [5 ILCS 175];
- 5) The Environmental Protection Act [415 ILCS 5];

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- 6) [Regulations relating to public access to Board records \(2 Ill. Adm. Code 2175\); and](#)
- 7) [Board procedural rules relating to protection of trade secrets and confidential information \(35 Ill. Adm. Code 130\).](#)
- g) [Nothing in this Section or in any provisions adopted pursuant to subsection \(d\)\(1\) of this Section will create any right or privilege to submit any document as an electronic document.](#)

[BOARD NOTE: Subsection \(g\) of this Section is derived from 40 CFR 3.2\(c\), as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\).](#)

[BOARD NOTE: Derived from 40 CFR 3 and 145.11\(a\)\(33\), as added, and 40 CFR 271.10\(b\), 271.11\(b\), and 271.12\(h\) \(2005\), as amended at 70 Fed. Reg. 59848 \(Oct. 13, 2005\).](#)

(Source: Added at 31 Ill. Reg. 730, effective December 20, 2006)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through [726](#), 728, 733, [738](#), and 739 only, the following terms have the meanings given below:

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

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

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

"Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

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"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

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

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

"Battery" means a device that consists of one or more electrically connected electrochemical cells ~~that~~ which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Board" means the Illinois Pollution Control Board.

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

Boiler physical characteristics.

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and the unit's combustion chamber and primary energy recovery sections must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery sections (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying

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flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

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

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

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

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

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

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

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

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

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

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste ~~pursuant to~~ the provisions of Subpart DD of 35 Ill. Adm. Code 724 and Subpart DD of 35 Ill. Adm. Code 725.

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

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

"Designated facility" means either of the following entities:

A hazardous waste treatment, storage, or disposal facility that has been designated on the manifest by the generator, pursuant to 35 Ill. Adm. Code 722.120, of which any of the following is true:

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

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270 (2005);

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271 (2005); or

The facility is regulated ~~pursuant to~~ 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 266; or

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Effective September 5, 2006, a generator site designated by the hazardous waste generator on the manifest to receive back its own waste as a return shipment from a designated hazardous waste treatment, storage, or disposal facility that has rejected the waste in accordance with 35 Ill. Adm. Code 724.172(f) or 725.172(f).

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

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

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

"Dioxins and furans" or "D/F" means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

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

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

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

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

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

"Elementary neutralization unit" means a device of which the following is true:

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

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

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

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

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

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

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

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

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

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

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

Region VII: Nebraska, Kansas, Missouri, and Iowa.

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

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

Region X: Washington, Oregon, Idaho, and Alaska.

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

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

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

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

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

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

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

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

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment, or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States Department of Defense (USDOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and USDOD-certified civilian or contractor personnel and other federal, State, or local government or civilian personnel who are similarly trained in explosives or munitions emergency responses.

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"Facility" means the following:

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

For the purpose of implementing corrective action ~~pursuant to~~ 35 Ill. Adm. Code 724.201 or 35 Ill. Adm. Code 727.201, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action ~~pursuant to~~ RCRA section 3008(h).

Notwithstanding the immediately-preceding paragraph of this definition, a remediation waste management site is not a facility that is subject to 35 Ill. Adm. Code 724.201, but a facility that is subject to corrective action requirements if the site is located within such a facility.

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

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

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

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

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

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

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

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

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

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

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

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

"Incinerator" means any enclosed device of which the following is true:

The facility uses controlled flame combustion, and both of the following are true of the facility:

The facility does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor

The facility is not listed as an industrial furnace; or

The facility meets the definition of infrared incinerator or plasma arc incinerator.

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"Incompatible waste" means a hazardous waste that is unsuitable for the following:

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

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

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

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

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

Coke ovens;

Blast furnaces;

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

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

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

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent, as generated; and

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

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

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

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

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

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

Other relevant factors.

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

"Infrared incinerator" means any enclosed device that uses electric powered

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resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

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

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

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

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

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

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

"Lamp" or "universal waste lamp" means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infrared regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

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

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

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(CAMU).

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

"LDS" means leak detection system.

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

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

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

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

"Manifest" means the shipping document USEPA Form 8700-22 (including, if necessary, USEPA Form 8700-22A) originated and signed by the generator or offeror that contains the information required by Subpart B of 35 Ill. Adm. Code 722 and the applicable requirements of 35 Ill. Adm. Code 722 through [727.725](#).

"Manifest document number" means, until September 5, 2006, the USEPA twelve digit identification number assigned to the generator plus a unique five-digit document number assigned to the manifest by the generator for recording and reporting purposes.

"Manifest tracking number" means, effective September 5, 2006, the

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alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits) that is pre-printed in Item 4 of the manifest by a registered source.

"Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function~~mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture.~~

BOARD NOTE: The definition of "mercury containing equipment" was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

~~"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays. [415 ILCS 5/3.283]~~

BOARD NOTE: The definition of "mercury relay" was added pursuant to Section 3.283 of the Act [415 ILCS 5/3.283] (see P.A. 93-964, effective August 20, 2004).

~~"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. [415 ILCS 5/3.284]~~

BOARD NOTE: The definition of "mercury switch" was added pursuant to Section 3.284 of the Act [415 ILCS 5/3.284] (see P.A. 93-964, effective August 20, 2004).

"Military munitions" means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot

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control agents, smokes, and incendiaries used by USDOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE's nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

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

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container; tank; surface impoundment; pile; land treatment unit; landfill; incinerator; boiler; industrial furnace; underground injection well with appropriate technical standards [pursuant to](#) 35 Ill. Adm. Code 730; containment building; corrective action management unit (CAMU); unit eligible for a research, development, and demonstration permit [pursuant to](#) 35 Ill. Adm. Code 703.231; or staging pile.

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

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

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

"Onground tank" means a device meeting the definition of tank that is situated in

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such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

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

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

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

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

Control of emission of the gaseous combustion products.

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

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

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

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

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

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

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in Section 720.111(c);

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA section 512 (21 USC 360b), incorporated by reference in Section 720.111(c), to be an exempted new animal drug; or

It is an animal feed under FFDCA section 201(w) (21 USC 321(w)), incorporated by reference in Section 720.111(c), that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug." This is very similar to the language of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as pesticide any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Pile" means any noncontainerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

"Plasma arc incinerator" means any enclosed device that uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

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

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

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

BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

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

"RCRA standardized permit" means a RCRA permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703 and Subpart G of 35 Ill. Adm. Code 702 that authorizes management of hazardous waste. The RCRA standardized permit may have two parts: a uniform portion issued in all cases and a supplemental portion issued at the discretion of the Agency.

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

"Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

"Remediation waste management site" means a facility where an owner or

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operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action pursuant to ~~under~~ 35 Ill. Adm. Code 724.201, but a remediation waste management site is subject to corrective action requirements if the site is located in such a facility.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

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

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

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

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

"SIC code" means "Standard Industrial Classification code," as assigned to a site by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication "Standard Industrial Classification Manual," incorporated by reference in Section 720.111(a).

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

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and which has a total thermal input, excluding the heating value

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of the sludge itself, of 2,500 Btu/lb or less of sludge treated on a wet-weight basis.

"Small quantity generator" means a generator that generates less than 1,000 kg of hazardous waste in a calendar month.

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

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

"Staging pile" means an accumulation of solid, non-flowing "remediation waste" (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Agency according to the requirements of 35 Ill. Adm. Code 724.654.

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

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

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

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

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

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

"TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin and furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

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

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with ~~the requirements of~~ 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

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

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

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

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

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

"Treatability study" means the following:

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

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

The efficiency of a treatment process for a specific waste or wastes; and

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

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

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

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

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well, where the depth of the dug

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well is greater than the largest surface dimension. (See also "injection well.")

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

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

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

"Universal waste" means any of the following hazardous wastes that are managed pursuant to~~under~~ the universal waste requirements of 35 Ill. Adm. Code 733:

Batteries, as described in 35 Ill. Adm. Code 733.102;

Pesticides, as described in 35 Ill. Adm. Code 733.103;

Mercury-containing equipment,~~Thermostats~~, as described in 35 Ill. Adm. Code 733.104; and

Lamps, as described in 35 Ill. Adm. Code 733.105;~~;~~ and

Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.

~~BOARD NOTE: Mercury-containing equipment was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).~~

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates the universal waste, and sends that universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

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"Universal waste handler" does not mean either of the following:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

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

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

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

"USDOT" or "Department of Transportation" means the United States Department of Transportation.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"USEPA" or "EPA" ~~or "U.S. EPA"~~ means the United States Environmental Protection Agency.

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

"Wastewater treatment unit" means a device of which the following is true:

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

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

It meets the definition of tank or tank system in this Section.

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

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

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

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

(Source: Amended at 31 Ill. Reg. 730, effective December 20, 2006)

Section 720.111 References

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 702 through 705, 721 through ~~726~~, 728, 730, 733, 738, and 739:

- a) Non-Regulatory Government Publications and Publications of Recognized Organizations and Associations:

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

ACI 318-83: "Building Code Requirements for Reinforced Concrete," adopted September 1983, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

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

See ASME/ANSI B31.3 and B31.4 and supplements below in this subsection (a) under ASME.

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

"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632, Second Edition, December 1987, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

"Evaporative Loss from External Floating-Roof Tanks," API publication 2517, Third Edition, February 1989, USEPA-approved for 35 Ill. Adm. Code 725.984.

"Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," 4th Edition, 1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 724.291, 724.293, 725.291, and 725.292.

"Installation of Underground Petroleum Storage Systems," API Recommended Practice 1615, Fourth Edition, November 1987, referenced in 35 Ill. Adm. Code 724.292.

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

"Chemical Plant and Petroleum Refinery Piping," ASME/ANSI B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols," ASME/ANSI B31.4-1986, as supplemented by B31.4a-1987, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 100 Barr

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Harbor Drive, West Conshohocken, PA 19428-2959, 610-832-9585:

ASTM C 94-90, "Standard Specification for Ready-Mixed Concrete," approved March 30, 1990, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ASTM D 88-87, "Standard Test Method for Saybolt Viscosity," approved April 24, 1981, reapproved January 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D93-85, "Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," approved October 25, 1985, USEPA-approved for 35 Ill. Adm. Code 721.121.

ASTM D 140-70, "Standard Practice for Sampling Bituminous Materials," approved 1970, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 346-75, "Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis," approved 1975, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 420-69, "Guide to Site Characterization for Engineering, Design, and Construction Purposes," approved 1969, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1452-65, "Standard Practice for Soil Investigation and Sampling by Auger Borings," approved 1965, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1946-90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography," approved March 30, 1990, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2161-87, "Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity," March 27, 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 2234-76, "Standard Practice for Collection of a Gross Sample of Coal," approved 1976, referenced in Appendix A to 35 Ill. Adm. Code 721.

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ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)," approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2879-92, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope," approved 1992, USEPA-approved for 35 Ill. Adm. Code 725.984, referenced in 35 Ill. Adm. Code 724.963 and 725.963.

ASTM D 3828-87, "Standard Test Methods for Flash Point of Liquids by Setaflash Cbsed Tester," approved December 14, 1988, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," approved May 27, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," approved February 1, 1987, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM E 260-85, "Standard Practice for Packed Column Gas Chromatography," approved June 28, 1985, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM G 21-70 (1984a), "Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi. ", referenced in 35 Ill. Adm. Code 724.414 and 725.414.

ASTM G 22-76 (1984b), "Standard Practice for Determining Resistance of Plastics to Bacteria. ", referenced in 35 Ill. Adm. Code 724.414 and 725.414.

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GPO. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, 202-512-1800:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, referenced in 35 Ill. Adm. Code 702.110 and Section 720.110.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA 530/SW-846 (Third Edition, November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August, 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1). See below in this subsection (a) under NTIS.

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

"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE Recommended Practice RP0285-85, approved March 1985, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

NFPA. Available from the National Fire Protection Association, 1 Batterymarch Park, Boston, MA 02269, 617-770-3000 or 800-344-3555:

"Flammable and Combustible Liquids Code," NFPA 30, issued July 18, 2003, as supplemented by TIA 03-1, issued July 15, 2004, and corrected by Errata 30-03-01, issued August 13, 2004, USEPA-approved for 35 Ill. Adm. Code 724.298, ~~and~~ 725.298, ~~and~~ [727.290](#), referenced in 35 Ill. Adm. Code ~~725.301, 724.298~~ and 726.211.

NTIS. Available from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-6000 or 800-553-6847 (Internet address: www.ntis.gov):

"APTI Course 415: Control of Gaseous Emissions," December 1981, USEPA publication number [EPA-450/2-81-005](#), NTIS document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, [703.352](#), 724.935, and 725.935.

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BOARD NOTE: "APTI" denotes USEPA's "Air Pollution Training Institute" (Internet address: www.epa.gov/air/oaqps/eog/).

"Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," USEPA publication number EPA 530/SW-87-011, March 15, 1987, NTIS document number PB88-170766, referenced in 35 Ill. Adm. Code 728.106.

"Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry," USEPA publication number EPA 821/R-98-002, NTIS document number PB99-121949, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

BOARD NOTE: EPA 821/R-98-002 is also available on the Internet for free download as a PDF document from the USEPA website at: www.epa.gov/waterscience/methods/16640514.pdf.

"Methods for Chemical Analysis of Water and Wastes," Third Edition, March 1983, USEPA document number EPA 600/4-79-020, NTIS document number PB84-128677, referenced in 35 Ill. Adm. Code 725.192.

BOARD NOTE: EPA 600/4-79-020 is also available on the Internet as a viewable/printable HTML document from the USEPA website at: www.epa.gov/clariton/clhtml/pubtitleORD.html as document 600479002.

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities," August 1977, EPA 530/SW-611, NTIS document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities," August 1977, EPA-530/SW-611, NTIS document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources," October 1992, USEPA publication number EPA 454/R-92-019, NTIS document number 93-219095, referenced in 35 Ill. Adm. Code 726.204 and 726.206.

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BOARD NOTE: EPA 454/R-92-019 is also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet address:

www.epa.gov/scram001/guidance/guide/scrng.wpd.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA 530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

Method 0010 (September 1986) (Modified Method 5 Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0011 (December 1996) (Sampling for Selected Aldehyde and Ketone Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and for Appendix I to 35 Ill. Adm. Code 726.

Method 0020 (September 1986) (Source Assessment Sampling System), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0023A (December 1996) (Sampling Method for Polychlorinated Dibenzop-Dioxins and Polychlorinated Dibenzofuran Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.204.

Method 0030 (September 1986) (Volatile Organic Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0031 (December 1996) (Sampling Method for Volatile Organic Compounds (SMVOC)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

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Method 0040 (December 1996) (Sampling of Principal Organic Hazardous Constituents from Combustion Sources Using Tedlar[®] Bags), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0050 (December 1996) (Isokinetic HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0051 (December 1996) (Midget Impinger HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0060 (December 1996) (Determination of Metals in Stack Emissions), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.206.

Method 0061 (December 1996) (Determination of Hexavalent Chromium Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, 35 Ill. Adm. Code 726.206, and Appendix I to 35 Ill. Adm. Code 726.

Method 1010A (November 2004) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1020B (November 2004) (Standard Test Methods for Flash Point by Setaflash (Small Scale) Closed-cup Apparatus), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1110A (November 2004) (Corrosivity Toward Steel), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

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Method 1311 (September 1992) (Toxicity Characteristic Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721; for 35 Ill. Adm. Code 721.124, 728.107, and 728.140; and for Table T to 35 Ill. Adm. Code 728.

Method 1312 (September 1994) (Synthetic Precipitation Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1320 (September 1986) (Multiple Extraction Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1330A (September 1992) (Extraction Procedure for Oily Wastes), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9010C (November 2004) (Total and Amenable Cyanide: Distillation), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9012B (November 2004) (Total and Amenable Cyanide (Automated Colorimetric, with Off-Line Distillation)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9040C (November 2004) (pH Electrometric Measurement), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 9045D (November 2004) (Soil and Waste pH), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 724.934, 724.963, 725.934, and 725.963.

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Method 9070A (November 2004) (n-Hexane Extractable Material (HEM) for Aqueous Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9071B (April 1998) (n-Hexane Extractable Material (HEM) for Sludge, Sediment, and Solid Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9095B (November 2004) (Paint Filter Liquids Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 724.290, 724.414, 725.290, 725.414, 725.981, [727.290](#), and 728.132.

BOARD NOTE: EPA 530/SW-846 is also available on the Internet for free download in segments in PDF format from the USEPA website at: www.epa.gov/SW-846.

OECD. Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France (www.oecd.org), also OECD Washington Center, 2001 L Street, NW, Suite 650, Washington, DC 20036-4922, 202-785-6323 or 800-456-6323 (www.oecdwash.org):

OECD "Amber List of Wastes," Appendix 4 to the OECD Council Decision C(92)39/Final (March 30, 1992, revised May 1993) (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations), USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD "Amber Tier," Section IV of the annex to the OECD Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

Annex to OECD Council Decision C(88)90/Final, as amended by C(94)152/Final (revised July 1994), referenced in 35 Ill. Adm. Code 722.187.

OECD "Green List of Wastes," Appendix 3 to the OECD Council Decision C(92)39/Final (March 30, 1992, revised May 1994) (Concerning the

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Control of Transfrontier Movements of Wastes Destined for Recovery Operations), USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD "Green Tier," Section III of the annex to the OECD Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

OECD Guideline for Testing of Chemicals, "Ready Biodegradability," Method 301B (July 17, 1992), "CO₂ Evolution (Modified Sturm Test)," referenced in 35 Ill. Adm. Code 724.414.

OECD "Red List of Wastes," Appendix 5 to the OECD Council Decision C(92)39/Final (March 30, 1992, revised May 1993), USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD "Red Tier," Section V of the annex to the OECD Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

Table 2.B of the Annex of OECD Council Decision C(88)90(Final) (May 27, 1988), amended by C(94)152/Final (July 28, 1994), "Decision of the Council on Transfrontier Movements of Hazardous Wastes," referenced in 35 Ill. Adm. Code 722.181 and 722.187.

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, 708-498-1980:

"Standard for Dual Wall Underground Steel Storage Tanks" (1986), referenced in 35 Ill. Adm. Code 724.293.

USDOD. Available from the United States Department of Defense:

"DOD Ammunition and Explosives Safety Standards" (DOD 6055.9-STD), as in effect in July 1999, referenced in 35 Ill. Adm. Code 726.305.

"The Motor Vehicle Inspection Report" (DD Form 626), as in effect on November 8, 1995, referenced in 35 Ill. Adm. Code 726.303.

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"Requisition Tracking Form" (DD Form 1348), as in effect on November 8, 1995, referenced in 35 Ill. Adm. Code 726.303.

"The Signature and Tally Record" (DD Form 1907), as in effect on November 8, 1995, referenced in 35 Ill. Adm. Code 726.303.

"Special Instructions for Motor Vehicle Drivers" (DD Form 836), as in effect on November 8, 1995, referenced in 35 Ill. Adm. Code 726.303.

USEPA, Office of [Ground Water and Drinking Water](#). Available from United States Environmental Protection Agency, Office of Drinking Water, State Programs Division, WH 550 E, Washington, D.C. 20460:

["Inventory of Injection Wells," USEPA Form 7520-16 \(Revised 8-01\), referenced in 35 Ill. Adm. Code 704.148 and 704.283.](#)

"Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells," USEPA publication number EPA 570/9-87-002, August 1987, referenced in 35 Ill. Adm. Code 730.165.

USEPA, Receptor Analysis Branch. Available from Receptor Analysis Branch, USEPA (MD-14), Research Triangle Park, NC 27711:

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, USEPA publication number EPA 450/R-92-019, USEPA-approved for Appendix I to 35 Ill. Adm. Code 726.

BOARD NOTE: EPA-454/R-92-019 is also available [forte](#) purchase from NTIS (see above) and on the Internet for free download as a WordPerfect document from the USEPA website at following Internet address: www.epa.gov/scram001/guidance/guide/scrng.wpd.

USEPA Region 6. Available from United States Environmental Protection Agency, Region 6, Multimedia Permitting and Planning Division, 1445 Ross Avenue, Dallas, TX 75202 (phone: 214-665-7430):

"EPA RCRA Delisting Program – Guidance Manual for the Petitioner," March 23, 2000, referenced in Section 720.122.

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USGSA. Available from the United States Government Services Administration:

Government Bill of Lading (GBL) (GSA Standard Form 1109), as in effect on November 8, 1995, referenced in Section 726.303.

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

10 CFR 20.2006 [\(2006\)\(2005\)](#) (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 702.110, 726.425, and 726.450.

Table II, column 2 in Appendix B to 10 CFR 20 (2005) (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 [\(2006\)\(2005\)](#) (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 [\(2006\)\(2005\)](#) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 [\(2006\)\(2005\)](#) (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

33 CFR 153.203 (2005), [as amended at 70 Fed. Reg. 74669 \(December 16, 2005\)](#) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

[40 CFR 3.2, as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\) \(How Does This Part Provide for Electronic Reporting?\)](#), referenced in Section 720.104.

[40 CFR 3.3, as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\) \(What Definitions Are Applicable to This Part?\)](#), referenced in Section 720.104.

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[40 CFR 3.10, as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\) \(What Are the Requirements for Electronic Reporting to EPA?\)](#), referenced in Section 720.104.

[40 CFR 3.2000, as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\) \(What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?\)](#), referenced in Section 720.104.

40 CFR 51.100(ii) (2005) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 (2005), [as amended at 70 Fed. Reg. 68218 \(November 9, 2005\)](#) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models," Revised 1986, USEPA publication number EPA 450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement).

Appendix B to 40 CFR 52.741 (2005) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, [703.352](#), 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60 (2005), [as amended at 70 Fed. Reg. 51266 \(Aug. 30, 2005\)](#), [70 Fed. Reg. 55568 \(Sep. 22, 2005\)](#), [70 Fed. Reg. 59848 \(Oct. 13, 2005\)](#), [70 Fed. Reg. 73138 \(Dec. 9, 2005\)](#), [70 Fed. Reg. 74679 \(Dec. 16, 2005\)](#), and [70 Fed. Reg. 74870 \(Dec. 16, 2005\)](#) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 (2005) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Appendix A to 40 CFR 60 (2005) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

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Method 1 (Sample and Velocity Traverses for Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), referenced in 35 Ill. Adm. Code 724.933, 724.934, 725.933, 725.934, and 726.205.

Method 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2B (Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators), referenced in 35 Ill. Adm. Code 726.205.

Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2E (Determination of Landfill Gas Production Flow Rate), referenced in 35 Ill. Adm. Code 726.205.

Method 2F (Determination of Stack Gas Velocity and Volumetric Flow Rate with Three-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2G (Determination of Stack Gas Velocity and Volumetric Flow Rate with Two-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2H (Determination of Stack Gas Velocity Taking into Account Velocity Decay Near the Stack Wall), referenced in 35 Ill. Adm. Code 726.205.

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Method 3 (Gas Analysis for the Determination of Dry Molecular Weight), referenced in 35 Ill. Adm. Code 724.443 and 726.205.

Method 3A (Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)), referenced in 35 Ill. Adm. Code 726.205.

Method 3B (Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air), referenced in 35 Ill. Adm. Code 726.205.

Method 3C (Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 4 (Determination of Moisture Content in Stack Gases), referenced in 35 Ill. Adm. Code 726.205.

Method 5 (Determination of Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5A (Determination of Particulate Matter Emissions from the Asphalt Processing and Asphalt Roofing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5B (Determination of Nonsulfuric Acid Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5D (Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters), referenced in 35 Ill. Adm. Code 726.205.

Method 5E (Determination of Particulate Matter Emissions from the Wool Fiberglass Insulation Manufacturing Industry), referenced in 35 Ill. Adm. Code 726.205.

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Method 5F (Determination of Nonsulfate Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5G (Determination of Particulate Matter Emissions from Wood Heaters (Dilution Tunnel Sampling Location)), referenced in 35 Ill. Adm. Code 726.205.

Method 5H (Determination of Particulate Emissions from Wood Heaters from a Stack Location), referenced in 35 Ill. Adm. Code 726.205.

Method 5I (Determination of Low Level Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography), referenced in 35 Ill. Adm. Code 724.933, 724.934, 725.933, and 725.934.

Method 21 (Determination of Volatile Organic Compound Leaks), referenced in 35 Ill. Adm. Code 703.213, 724.934, 724.935, 724.963, 725.934, 725.935, 725.963, and 725.984.

Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), referenced in 35 Ill. Adm. Code 724.933, 724.1101, 725.933, ~~and 725.1101~~, [and 727.900](#).

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 724.934 and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 724.982, 725.983, and 725.984.

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 725.984.

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Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code 724.987 and 725.987.

40 CFR 61 (2005), [as amended at 70 Fed. Reg. 73138 \(Dec. 9, 2005\) and 70 Fed. Reg. 73595 \(Dec. 13, 2005\)](#) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 (2005) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Subpart FF of 40 CFR 61 (2005) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 (2005), [as amended at 70 Fed. Reg. 38554 \(July 1, 2005\), 70 Fed. Reg. 38780 \(July 6, 2005\), 70 Fed. Reg. 39426 \(July 8, 2005\), 70 Fed. Reg. 39662 \(July 11, 2005\), 70 Fed. Reg. 40672 \(July 14, 2005\), 70 Fed. Reg. 44285 \(Aug. 2, 2005\), 70 Fed. Reg. 46684 \(Aug. 10, 2005\), 70 Fed. Reg. 50118 \(Aug. 25, 2005\), 70 Fed. Reg. 51269 \(Aug. 30, 2005\), 70 Fed. Reg. 57513 \(Oct. 3, 2005\), 70 Fed. Reg. 59402 \(Oct. 12, 2005\), 70 Fed. Reg. 59848 \(Oct. 13, 2005\), 70 Fed. Reg. 66280 \(Nov. 2, 2005\), 70 Fed. Reg. 73138 \(Dec. 9, 2005\), 70 Fed. Reg. 73595 \(Dec. 13, 2005\), 70 Fed. Reg. 75042 \(Dec. 19, 2005\), 70 Fed. Reg. 75047 \(Dec. 19, 2005\), 70 Fed. Reg. 75320 \(Dec. 19, 2005\), 70 Fed. Reg. 75924 \(Dec. 21, 2005\), 70 Fed. Reg. 76918 \(Dec. 28, 2005\), and 71 Fed. Reg. 14655 \(Mar. 23, 2006\)](#) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 725.933, 725.964, and 725.980.

Subpart RR of 40 CFR 63 (2005) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 724.982, 724.984, 724.985, 725.983, 725.985, and 725.986.

[Subpart EEE of 40 CFR 63 \(2000\) \(National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors\)](#), referenced in 35 Ill. Adm. Code 703.280.

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Subpart EEE of 40 CFR 63 (2005), [as amended at 70 Fed. Reg. 59402 \(Oct. 12, 2005\)](#), [70 Fed. Reg. 75042 \(Dec. 19, 2005\)](#), and [71 Fed. Reg. 14655 \(Mar. 23, 2006\)](#) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), [63.1215 \(What are the Health-Based Compliance Alternatives for Total Chlorine?\)](#), [63.1216 \(What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?\)](#), [63.1217 \(What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?\)](#), [63.1218 \(What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?\)](#), [63.1219 \(What are the Replacement Standards for Hazardous Waste Incinerators?\)](#), [63.1220 \(What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?\)](#), and [63.1221 \(What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?\)](#)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, [703.280](#), 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (2005) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

Appendix C to 40 CFR 63 (2005) (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 (2005) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

40 CFR 136.3 (Identification of Test Procedures) (2005), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 (2005) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 (2005) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

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40 CFR 257 (2005), [as amended at 70 Fed. Reg. 59848 \(Oct. 13, 2005\)](#) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 258 (2005), [as amended at 70 Fed. Reg. 44150 \(Aug. 1, 2005\) and 70 Fed. Reg. 59848 \(Oct. 13, 2005\)](#) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21 (2005) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

Appendix I to 40 CFR 260 (2005) (Overview of Subtitle C Regulations), referenced in Appendix A to 35 Ill. Adm. Code 720.

Appendix III to 40 CFR 261 (2005) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53 (2005) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54 (2005) (Special Manifest Requirements), and as amended at 70 Fed. Reg. 10776 (March 4, 2005), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55 (2005) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56 (2005) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57 (2005) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

Appendix to 40 CFR 262 (2005) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), and as amended at 70 Fed. Reg. 10776 (March 4, 2005), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 (2005) (Wording of the Instruments), referenced in 35 Ill.

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Adm. Code 724.251 [and 727.240](#).

Appendix I to 40 CFR 264 (2005) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 (2005) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 (2005) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 [and 35 Ill. Adm. Code 727.270](#).

Appendix VI to 40 CFR 264 (2005) (Political Jurisdictions in Which Compliance with §264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306 and 724.118.

Appendix I to 40 CFR 265, ~~Appendices I and III through V (2004)~~ (2005) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 (2005) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 (2005) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 (2005) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266 (2005) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

Section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners), referenced in 35 Ill. Adm. Code 726.200 and 726.204.

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Section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure), referenced in 35 Ill. Adm. Code 726.204.

Section 7.0 (Statistical Methodology for Bevill Residue Determinations), referenced in 35 Ill. Adm. Code 726.212.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Methods Manual for Compliance with BIF Regulations: Burning Hazardous Waste in Boilers and Industrial Furnaces," December 1990, USEPA publication number EPA 530/SW-91-010, NTIS document number PB91-120006.

40 CFR 270.5 (2005) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 761 (2005) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 (2005) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 (2005) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 (2005) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 (2005) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 ([2005](#)), [as amended at 70 Fed. Reg. 73156 \(Dec. 9, 2005\)](#)(~~2004~~) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 ([2005](#)), [as amended at 70 Fed. Reg. 73156 \(Dec. 9, 2005\)](#)(~~2004~~) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

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49 CFR 171.3 [\(2005\)\(2004\)](#) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 [\(2005\)](#), as amended at [70 Fed. Reg. 20018 \(July 28, 2005\)](#) and [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 [\(2005\)\(2004\)](#) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 [\(2005\)\(2004\)](#) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 [\(2005\)](#), as amended at [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

49 CFR 172.304 [\(2005\)\(2004\)](#) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart F of 49 CFR 172 [\(2005\)\(2004\)](#) (Placarding), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 173 [\(2005\)](#), as amended at [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Shippers – General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 722.130, 724.986, 724.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 [\(2005\)\(2004\)](#) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 [\(2005\)\(2004\)](#) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, and 725.987.

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49 CFR 173.28 [\(2005\)\(2004\)](#) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 [\(2005\)\(2004\)](#) (Class 1 –Definitions), referenced in 35 Ill. Adm. Code 721.124.

49 CFR 173.54 [\(2005\)\(2004\)](#) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.124.

49 CFR 173.115 [\(2005\)\(2004\)](#) (Class 2, Divisions 2.1, 2.2, and 2.3 – Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 [\(2005\)\(2004\)](#) (Class 5, Division 5.1 – Definition and Assignment of Packaging Groups), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 [\(2005\)](#), as amended at [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 [\(2005\)](#), as amended at [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 [\(2005\)](#), as amended at [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 [\(2005\)](#), as amended at [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 178 [\(2005\)](#), as amended at [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 [\(2005\)](#), as amended at [70 Fed. Reg. 73156 \(Dec. 9, 2005\)\(2004\)](#) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138,

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733.152, and 739.143.

49 CFR 180 (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005)(2004) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014), as amended through January 23, 2000, referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360(j)), as amended through January 2, 2001, referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 1412 of the Department of Defense Authorization Act of 1986, Pub. L. 99-145 (50 USC 1521(j)(1)), as amended through January 23, 2000, referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 31 Ill. Reg. 730, effective December 20, 2006)

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section 720.120 Rulemaking

- a) Any person may petition the Board to adopt as State regulations rules that are identical in substance with newly-adopted federal amendments or regulations. The petition must take the form of a proposal for rulemaking pursuant to 35 Ill. Adm. Code 102. The proposal must include a listing of all amendments to 40 CFR 260 through ~~266~~, 268, 273, or 279 that have been made since the last preceding amendment or proposal to amend 35 Ill. Adm. Code 720 through ~~726~~, 728, 733, or 739, pursuant to Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)].
- b) Any person may petition the Board to adopt amendments or additional regulations

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not identical in substance with federal regulations. Such proposal must conform to 35 Ill. Adm. Code 102 and Section 22.4(b) or 22.4(c) and Title VII of the Environmental Protection Act [415 ILCS 5/22.4(b) or (c) and Title VII].

(Source: Amended at 31 Ill. Reg. 730, effective December 20, 2006)

Section 720.140 Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

- a) The Agency may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2)(D) should be regulated pursuant to 35 Ill. Adm. Code 721.106(b) and (c) rather than pursuant to the provisions of Subpart F of 35 Ill. Adm. Code 726. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the Agency must consider the following factors:
- 1) The types of materials accumulated or stored and the amounts accumulated or stored;
 - 2) The method of accumulation or storage;
 - 3) The length of time the materials have been accumulated or stored before being reclaimed;
 - 4) Whether any contaminants are being released into the environment, or are likely to be so released; and
 - 5) Other relevant factors.
- b) The procedures for this decision are set forth in Section 720.141.

(Source: Amended at 31 Ill. Reg. 730, effective December 20, 2006)

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- 1) Heading of the Part: Identification and Listing of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 721
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
721.101	Amend
721.103	Amend
721.104	Amend
721.105	Amend
721.107	Amend
721.108	Amend
721.109	Amend
721.120	Amend
721.130	Amend
721.138	Amend
721.APPENDIX I, TABLE B	Amend
- 4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7022; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to the rulemaking? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of 11/16/06, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated 4/6/06, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor

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corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the April 21, 2006 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

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

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

- 15) Summary and purpose of the rulemaking: The amendments to Part 721 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 721 implement segments of the 8/5/05, 9/8/05, 10/4/05, and 10/13/05 federal amendments. The amendments incorporate elements of the Mercury-Containing Device Rule, the Standardized Permit Rule, and the amendments to the so-called "headworks exemption" from the definition of hazardous waste into the RCRA Subtitle C hazardous waste identification regulations. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal

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Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's opinion and order of 11/16/06 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's opinion and order of 11/16/06, 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:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section	
721.101	Purpose and Scope
721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
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AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998,

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effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006.

SUBPART A: GENERAL PROVISIONS

Section 721.101 Purpose and Scope

- a) This Part identifies those solid wastes that are subject to regulation as hazardous wastes under 35 Ill. Adm. Code 702, 703, ~~and 705~~, 722 through ~~725, and~~ 728, and which are subject to the notification requirements of Section 3010 of the Resource

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Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.). In this Part:

- 1) Subpart A of this Part defines the terms "solid waste" and "hazardous waste," identifies those wastes that are excluded from regulation under 35 Ill. Adm. Code 702, 703, ~~705~~, and 722 through ~~726~~, ~~and~~ 728, and establishes special management requirements for hazardous waste produced by conditionally exempt small quantity generators and hazardous waste that is recycled.
 - 2) Subpart B of this Part sets forth the criteria used to identify characteristics of hazardous waste and to list particular hazardous wastes.
 - 3) Subpart C of this Part identifies characteristics of hazardous wastes.
 - 4) Subpart D of this Part lists particular hazardous wastes.
- b) Limitations on definition of solid waste.
- 1) The definition of solid waste contained in this Part applies only to wastes that also are hazardous for purposes of the regulations implementing Subtitle C of RCRA. For example, it does not apply to materials (such as non-hazardous scrap, paper, textiles or rubber) that are not otherwise hazardous wastes and that are recycled.
 - 2) This Part identifies only some of the materials that are solid wastes and hazardous wastes under Sections 1004(5), 1004(27) and 7003 of RCRA. A material that is not defined as a solid waste in this Part, or is not a hazardous waste identified or listed in this Part, is still a hazardous waste for purposes of those Sections if, in the case of Section 7003 of RCRA, the statutory elements are established.
- c) For the purposes of Sections 721.102 and 721.106 the following definitions apply:
- 1) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.
 - 2) "Sludge" has the same meaning used in 35 Ill. Adm. Code 720.110.
 - 3) A "by-product" is a material that is not one of the primary products of a

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production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

- 4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.
- 5) A material is "used or reused" if either of the following is true:
 - A) It is employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or
 - B) It is employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment).
- 6) "Scrap metal" is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars) that when worn or superfluous can be recycled.
- 7) A material is "recycled" if it is used, reused or reclaimed.
- 8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75

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percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Section 721.104(c) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

- 9) "Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.
 - 10) "Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and fines, drosses and related materials that have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (Section 721.104(a)(13))).
 - 11) "Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries, such as turnings, cuttings, punchings, and borings.
 - 12) "Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries, and it includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap metal is also known as industrial or new scrap metal.
- d) The Agency has inspection authority pursuant to Section 3007 of RCRA and Section 4 of the Environmental Protection Act [415 ILCS 5/4].
 - e) [Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.](#)

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BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

Section 721.103 Definition of Hazardous Waste

- a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:
- 1) It is not excluded from regulation as a hazardous waste pursuant to~~under~~ Section 721.104(b); and
 - 2) It meets any of the following criteria:
 - A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part. However, any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded pursuant to~~under~~ Section 721.104(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste pursuant to~~under~~ Subpart C of this Part is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred, or if the mixture continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the toxicity characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in Section 721.124 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture.
 - B) It is listed in Subpart D of this Part and has not been excluded from the lists in Subpart D of this Part pursuant to~~under~~ 35 Ill. Adm. Code 720.120 and 720.122.
 - C) This subsection (a)(2)(B) corresponds with 40 CFR 261.3(a)(2)(iii), which USEPA removed and marked as "reserved"

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at 66 Fed. Reg. 27266 (May 16, 2001). This statement maintains structural consistency with the federal regulations.

- D) It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D of this Part and has not been excluded from this subsection (a)(2) pursuant to~~under~~ 35 Ill. Adm. Code 720.120 and 720.122, subsection (g) of this Section, or subsection (h) of this Section; however, the following mixtures of solid wastes and hazardous wastes listed in Subpart D of this Part are not hazardous wastes (except by application of subsection (a)(2)(A) or (a)(2)(B) of this Section) if the generator demonstrates that the mixture consists of wastewater the discharge of which is subject to regulation under either 35 Ill. Adm. Code 309 or 310 (including wastewater at facilities that have eliminated the discharge of wastewater) and the following is true of the waste:
- i) It is one or more of the following solvents listed in Section 721.131: benzene, carbon tetrachloride, tetrachloroethylene, trichloroethylene or the scrubber waters derived from the combustion of these spent solvents, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 1 part per million or the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at a facility that is subject to regulation under the federal Clean Air Act new source performance standards or national emission standards for hazardous air pollutants of 40 CFR 60, 61, or 63 or at a facility that is subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 1 part per million on an average weekly basis. Any facility that uses benzene as a solvent and claims this exemption must use an aerated biological wastewater treatment system and must use only lined surface impoundments or tanks prior to secondary clarification in the wastewater treatment system. A facility that chooses to measure concentration levels must file a

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copy of its sampling and analysis plan with the Agency. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the Agency. The Agency must reject the sampling and analysis plan if it determines that the sampling and analysis plan fails to include the information required by this subsection (a)(2)(D)(i) or that the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Agency rejects the sampling and analysis plan, or if the Agency determines that the facility is not following the sampling and analysis plan, the Agency must notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected;

- ii) It is one or more of the following spent solvents listed in Section 721.131: methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, 2-ethoxyethanol, or the scrubber waters derived from the combustion of these spent solvents, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million or the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at a facility that is subject to regulation under the federal Clean Air Act new source performance standards or national emission standards for hazardous air

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pollutants of 40 CFR 60, 61, or 63 or at a facility that is subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 25 parts per million on an average weekly basis. A facility that chooses to measure concentration levels must file a copy of its sampling and analysis plan with the Agency. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the Agency. The Agency must reject the sampling and analysis plan if it determines that the sampling and analysis plan fails to include the information required by this subsection (a)(2)(D)(ii) or that the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Agency rejects the sampling and analysis plan, or if the Agency determines that the facility is not following the sampling and analysis plan, the Agency must notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected;

- iii) It is one of the following wastes listed in Section 721.132, provided that the wastes are discharged to the refinery oil recovery sewer before primary oil/water/solids separation: heat exchanger bundle cleaning sludge from the petroleum refining industry (USEPA hazardous waste no. K050), crude oil storage tank sediment from petroleum refining operations (USEPA hazardous waste number K169), clarified slurry oil tank sediment or in-line filter/separation solids from petroleum refining operations (USEPA hazardous waste number K170), spent hydrotreating catalyst (USEPA hazardous waste number K171), and spent hydrorefining catalyst (USEPA hazardous waste number K172);

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- iv) It is a discarded hazardous waste, commercial chemical product or chemical intermediate listed in Section 721.121, 721.132, or 721.133 arising from de minimis losses of these materials ~~from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process~~. For purposes of this subsection (a)(2)(D)(iv), "de minimis" losses are inadvertent releases to a wastewater treatment system, including~~include~~ those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing. Any manufacturing facility that claims an exemption for de minimis quantities of a waste listed in Section 721.131 or 721.132, or any nonmanufacturing facility that claims an exemption for de minimis quantities of wastes listed in Subpart D of this Part, must either have eliminated the discharge of wastewaters or have included in its federal Clean Water Act (33 USC 1251 et seq.) permit application or wastewater pretreatment submission to the Agency or the wastewater pretreatment Control Authority pursuant to 35 Ill. Adm. Code 307 of the constituents for which each waste was listed (in Appendix G of this Part); and the constituents in Table T to 35 Ill. Adm. Code 728 for which each waste has a treatment standard (i.e., land disposal restriction constituents). A facility is eligible to claim the exemption once the Agency or Control Authority has been notified of possible de minimis releases via the Clean Water Act permit application or the wastewater pretreatment submission. A copy of the Clean Water Act permit application or the wastewater pretreatment submission must be placed in the facility's on-site files;
- v) It is wastewater resulting from laboratory operations

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containing toxic (T) wastes listed in Subpart D of this Part, provided that the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system or provided that the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation;

- vi) It is one or more of the following wastes listed in Section 721.132: wastewaters from the production of carbamates and carbamoyl oximes (USEPA Hazardous Waste No. K157), provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 parts per million by weight, or the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at a facility that is subject to regulation under the federal Clean Air Act new source performance standards or national emission standards for hazardous air pollutants of 40 CFR 60, 61, or 63 or at a facility that is subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 5 parts per million on an average weekly basis. A facility that chooses to measure concentration levels must file a copy of its sampling and analysis plan with the Agency. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be

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monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the Agency. The Agency must reject the sampling and analysis plan if it determines that the sampling and analysis plan fails to include the information required by this subsection (a)(2)(D)(vi) or that the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Agency rejects the sampling and analysis plan, or if the Agency determines that the facility is not following the sampling and analysis plan, the Agency must notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

- vii) It is wastewater derived from the treatment of one or more of the following wastes listed in Section 721.132: organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (USEPA Hazardous Waste No. K156), provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter, or the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at a facility that is subject to regulation under the federal Clean Air Act new source performance standards or national emission standards for hazardous air pollutants of 40 CFR 60, 61, or 63 or at a facility that is subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 5 milligrams per liter on an average weekly basis. A facility that chooses to measure concentration levels must file a copy of its sampling and analysis plan with the Agency. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location

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(headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the Agency. The Agency must reject the sampling and analysis plan if it determines that the sampling and analysis plan fails to include the information required by this subsection (a)(2)(D)(vii) or that the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Agency rejects the sampling and analysis plan, or if the Agency determines that the facility is not following the sampling and analysis plan, the Agency must notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected.

- E) 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 this Part. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of this Part).
- i) The rebuttable presumption does not apply to a metalworking oil or fluid containing chlorinated paraffins if it is processed through a tolling arrangement, as described in 35 Ill. Adm. Code 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to a metalworking oil or fluid if such an oil or fluid is recycled in any other manner, or disposed.
 - ii) The rebuttable presumption does not apply to a used oil contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to a used oil contaminated with CFCs that have been mixed with used oil from a source other than a refrigeration unit.

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- b) A solid waste that is not excluded from regulation ~~pursuant to~~ subsection (a)(1) of this Section becomes a hazardous waste when any of the following events occur:
- 1) In the case of a waste listed in Subpart D of this Part, when the waste first meets the listing description set forth in Subpart D of this Part.
 - 2) In the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in Subpart D of this Part is first added to the solid waste.
 - 3) In the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in Subpart C of this Part.
- c) Unless and until it meets the criteria of subsection (d) of this Section, a hazardous waste will remain a hazardous waste.

BOARD NOTE: This subsection (c) corresponds with 40 CFR 261.3(c)(1). The Board has codified 40 CFR 261.3(c)(2) at subsection (e) of this Section.

- d) Any solid waste described in subsection (e) of this Section is not a hazardous waste if it meets the following criteria:
- 1) In the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in Subpart C of this Part. (However, wastes that exhibit a characteristic at the point of generation may still be subject to ~~the requirements of~~ 35 Ill. Adm. Code 728, even if they no longer exhibit a characteristic at the point of land disposal.)
 - 2) In the case of a waste that is a listed waste ~~pursuant to~~ Subpart D of this Part, a waste that contains a waste listed ~~pursuant to~~ Subpart D of this Part, or a waste that is derived from a waste listed in Subpart D of this Part, it also has been excluded from subsection (e) of this Section ~~pursuant to~~ 35 Ill. Adm. Code 720.120 and 720.122.
- e) Specific inclusions and exclusions.
- 1) Except as otherwise provided in subsection (e)(2), (g), or (h) of this Section, any solid waste generated from the treatment, storage, or disposal

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of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off), is a hazardous waste. (However, materials that are reclaimed from solid wastes and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

- 2) The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, unless they exhibit one or more of the characteristics of hazardous waste:
 - A) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332).
 - B) Wastes from burning any of the materials exempted from regulation by Section 721.106(a)(3)(C) and (a)(3)(D).
 - C) Nonwastewater residues, such as slag, resulting from high temperature metal recovery (HTMR) processing of K061, K062, or F006 waste in the units identified in this subsection (e)(2) that are disposed of in non-hazardous waste units, provided that these residues meet the generic exclusion levels identified in the tables in this subsection (e)(2)(C) for all constituents and the residues exhibit no characteristics of hazardous waste. The types of units identified are rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or the following types of industrial furnaces (as defined in 35 Ill. Adm. Code 720.110): blast furnaces; smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces); and other furnaces designated by the Agency pursuant to that definition.
 - i) Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and when the process or operation generating the waste changes.

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- ii) Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements. The generic exclusion levels are the following:

Generic exclusion levels for K061 and K062 nonwastewater HTMR residues:

Constituent	Maximum for any single composite sample (mg/l)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Vanadium	1.26
Zinc	70

Generic exclusion levels for F006 nonwastewater HTMR residues:

Constituent	Maximum for any single composite sample (mg/l)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15

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Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

- iii) A one-time notification and certification must be placed in the facility's files and sent to the Agency (or, for out-of-State shipments, to the appropriate Regional Administrator of USEPA or the state agency authorized to implement federal 40 CFR 268 requirements) for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents, which do not exhibit any characteristics, and which are sent to RCRA Subtitle D (municipal solid waste landfill) units. 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 unit 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 calendar year, but no later than December 31. The notification must include the following information: the name and address of the ~~non-hazardous~~ waste management unit receiving the waste shipment; the USEPA hazardous waste number and treatability group at the initial point of generation; and the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows:

"I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

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- D) Biological treatment sludge from the treatment of one of the following wastes listed in Section 721.132: organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (USEPA Hazardous Waste No. K156) and wastewaters from the production of carbamates and carbamoyl oximes (USEPA Hazardous Waste No. K157).
- E) Catalyst inert support media separated from one of the following wastes listed in Section 721.132: spent hydrotreating catalyst (USEPA hazardous waste number K171) and spent hydrorefining catalyst (USEPA hazardous waste number K172).

BOARD NOTE: This subsection (e) would normally correspond with 40 CFR 261.3(e), a subsection that has been deleted and marked "reserved" by USEPA. Rather, this subsection (e) corresponds with 40 CFR 261.3(c)(2), which the Board codified here to comport with codification requirements and to enhance clarity.

- f) Notwithstanding subsections (a) through (e) of this Section and provided the debris, as defined in 35 Ill. Adm. Code 728.102, does not exhibit a characteristic identified at Subpart C of this Part, the following materials are not subject to regulation under 35 Ill. Adm. Code 702, 703, 720, 721 to 726, or 728:
- 1) Hazardous debris as defined in 35 Ill. Adm. Code 728.102 that has been treated using one of the required extraction or destruction technologies specified in Table F to 35 Ill. Adm. Code 728; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or
 - 2) Debris, as defined in 35 Ill. Adm. Code 728.102, that the Agency, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.
- g) Exclusion of certain wastes listed in Subpart D of this Part solely because they exhibit a characteristic of ignitability, corrosivity, or reactivity.
- 1) A hazardous waste that is listed in Subpart D of this Part solely because it exhibits one or more characteristics of ignitability, as defined under Section 721.121; corrosivity, as defined under Section 721.122; or

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reactivity, as defined under Section 721.123 is not a hazardous waste if the waste no longer exhibits any characteristic of hazardous waste identified in Subpart C of this Part.

- 2) The exclusion described in subsection (g)(1) of this Section also pertains to the following:
 - A) Any mixture of a solid waste and a hazardous waste listed in Subpart D of this Part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under subsection (a)(2)(D) of this Section; and
 - B) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in Subpart D of this Part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under subsection (e)(1) of this Section.
 - 3) Wastes excluded ~~pursuant to~~ this subsection (g) are subject to 35 Ill. Adm. Code 728 (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.
- h) Eligible radioactive mixed waste.
- 1) Hazardous waste containing radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of Subpart N of 35 Ill. Adm. Code 726 (i.e., it is "eligible radioactive mixed waste").
 - 2) The exemption described in subsection (h)(1) of this Section also pertains to the following:
 - A) Any mixture of a solid waste and an eligible radioactive mixed waste; and
 - B) Any solid waste generated from treating, storing, or disposing of an eligible radioactive mixed waste.
 - 3) Waste exempted ~~pursuant to~~ this subsection (h) must meet the eligibility criteria and specified conditions in 35 Ill. Adm. Code 726.325 and 726.330 (for storage and treatment) and in 35 Ill. Adm. Code 726.410 and 726.415 (for transportation and disposal). Waste that fails to satisfy

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these eligibility criteria and conditions is regulated as hazardous waste.

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

Section 721.104 Exclusions

- a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:
 - 1) Sewage.
 - A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and
 - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.
 - 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act [\[415 ILCS 5/12\(f\)\]](#) and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.
 - 3) Irrigation return flows.
 - 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
 - 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).

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- 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
 - A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
 - A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B) of this Section, so long as they meet all of the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving

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solutions are managed to prevent release to either land or groundwater or both;

- iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
- iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and
- v) Prior to operating pursuant to this exclusion, the plant owner or operator submits a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

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- 10) Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.
- 11) Nonwastewater splash condenser dross residue from the treatment of hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
 - A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B) of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), where such materials as generated would have otherwise met a listing under Subpart D of this Part, are designated as USEPA hazardous waste number F037

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listed wastes when disposed of or intended for disposal.

- B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A) of this Section. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D of this Part; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.
- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
- A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
- B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.
- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) Comparable fuels or comparable syngas fuels (i.e., comparable or syngas fuels) that meet the requirements of Section 721.138.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D of this Part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that the following is true:

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- A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
- B) The spent material is not accumulated speculatively;
- C) Except as provided in subsection (a)(17)(D) of this Section, the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors, provided that the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.
- D) The Agency must allow by permit that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
 - i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the

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volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

- ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have runoff and runoff controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.
- iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

BOARD NOTE: See Subpart D of 35 Ill. Adm. Code 703 for the RCRA Subtitle C permit public notice requirements.

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in non-land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
- F) For purposes of subsection (b)(7) of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by

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non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:
- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste code D018);
 - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:
- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).

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- B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
- i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way ~~that~~ ~~which~~ prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F) of this Section:
 - iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).
 - iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain

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the information specified in subsection (a)(20)(G) of this Section.

- C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must fulfill the following conditions:
- i) It must store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in subsection (a)(20)(B)(ii) of this Section.
 - ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
 - iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.
- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any

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person who generates a solid waste to determine if that waste is a hazardous waste.

- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i) of this Section, and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.
- F) A container used to store excluded secondary material must fulfill the following conditions:
- i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
 - ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
 - iii) It must prevent run-on into the containment system.

BOARD NOTE: Subsections (a)(20)(F)(i) through (a)(20)(F)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(B)(1) through (a)(20)(ii)(B)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(F) to comport with Illinois Administrative Code codification requirements.

- G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:
- i) The name of the transporter and date of the shipment;
 - ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and
 - iii) The type and quantity of excluded secondary material in each shipment.

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BOARD NOTE: Subsections (a)(20)(G)(i) through (a)(20)(G)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(D)(1) through (a)(20)(ii)(D)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(G) to comport with Illinois Administrative Code codification requirements.

- 21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20) of this Section, provided that the following conditions are fulfilled:

- A) The fertilizers meet the following contaminant limits:

- i) For metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

- ii) For dioxin contaminants, the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

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- C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with ~~the requirements of~~ subsection (a)(21)(B) of this Section. Such records must at a minimum include the following:
- i) The dates and times product samples were taken, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons taking the samples;
 - iii) A description of the methods and equipment used to take the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
 - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).
- b) Solid wastes that are not hazardous wastes. The following solid wastes are not hazardous wastes:
- 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:
 - A) The facility receives and burns only the following waste:

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- i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or
 - ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
- B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

BOARD NOTE: The U.S. Supreme Court determined, in *City of Chicago v. Environmental Defense Fund, Inc.*, 511 U.S. 328, 114 S. Ct. 1588, 128 L. Ed. 2d 302 (1994), that this exclusion and RCRA section 3001(i) (42 USC 6921(i)) do not exclude the ash from facilities covered by this subsection (b)(1) from regulation as a hazardous waste. At 59 Fed. Reg. 29372 (June 7, 1994), USEPA granted facilities managing ash from such facilities that is determined a hazardous waste under Subpart C of this Part until December 7, 1994 to file a Part A permit application pursuant to 35 Ill. Adm. Code 703.181. At 60 Fed. Reg. 6666 (Feb. 3, 1995), USEPA stated that it interpreted that the point at which ash becomes subject to RCRA Subtitle C regulation is when that material leaves the combustion building (including connected air pollution control equipment).

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:
 - A) The growing and harvesting of agricultural crops, or
 - B) The raising of animals, including animal manures.
- 3) Mining overburden returned to the mine site.
- 4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

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- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
- 6) Chromium wastes.
 - A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B to this Part) because chromium is present or which are listed in Subpart D of this Part due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:
 - i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
 - ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - iii) The waste is typically and frequently managed in non-oxidizing environments.
 - B) The following are specific wastes that meet the standard in subsection (b)(6)(A) of this Section (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):
 - i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse,

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- through-the-blue, and shearling;
- iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
 - iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
 - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
 - viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing;

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grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.

- B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:
- i) Slag from primary copper processing;
 - ii) Slag from primary lead processing;
 - iii) Red and brown muds from bauxite refining;
 - iv) Phosphogypsum from phosphoric acid production;
 - v) Slag from elemental phosphorus production;
 - vi) Gasifier ash from coal gasification;
 - vii) Process wastewater from coal gasification;
 - viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
 - ix) Slag tailings from primary copper processing;
 - x) Fluorogypsum from hydrofluoric acid production;
 - xi) Process wastewater from hydrofluoric acid production;
 - xii) Air pollution control dust or sludge from iron blast furnaces;

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- xiii) Iron blast furnace slag;
 - xiv) Treated residue from roasting and leaching of chrome ore;
 - xv) Process wastewater from primary magnesium processing by the anhydrous process;
 - xvi) Process wastewater from phosphoric acid production;
 - xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
 - xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
 - xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for hazardous waste codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the

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arsenical-treated wood and wood products for these materials' intended end use.

- 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (hazardous waste codes D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
- 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.
- 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
- 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this Part, if these oil filters have been gravity hot-drained using one of the following methods:
 - A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
 - B) Hot-draining and crushing;
 - C) Dismantling and hot-draining; or
 - D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
 - A) The following conditions must be fulfilled:

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- i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:

USEPA Hazardous Waste Numbers	Listing Effective Date
K169, K170, K171, and K172	February 8, 1999
K174 and K175	May 7, 2001
K176, K177, and K178	May 20, 2002
K181	August 23, 2005

- ii) The solid wastes described in subsection (b)(15)(A)(i) of this Section were disposed of prior to the effective date of the listing (as set forth in that subsection);
- iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and
- iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act.

- B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, or K178 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be

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managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.

- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, [and](#) 722 through [725, and](#) 728 or to the notification requirements of section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.
- d) Samples.
- 1) Except as provided in subsection (d)(2) of this Section, a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, [and](#) 722 through [726, and](#) 728. The sample qualifies when it fulfills one of the following conditions:
- A) The sample is being transported to a laboratory for the purpose of testing;
- B) The sample is being transported back to the sample collector after testing;
- C) The sample is being stored by the sample collector before transport to a laboratory for testing;
- D) The sample is being stored in a laboratory before testing;
- E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
- F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the

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sample may be necessary).

- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B) of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
 - A) Comply with U.S. Department of Transportation (USDOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or
 - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
 - ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
 - 3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1) of this Section.
- e) Treatability study samples.
- 1) Except as is provided in subsection (e)(2) of this Section, a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:
 - A) The sample is being collected and prepared for transportation by the generator or sample collector;

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- B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
 - C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
- 2) The exemption in subsection (e)(1) of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
- A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
 - B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;
 - C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) of this Section are met.
 - i) The transportation of each sample shipment complies with U.S. Department of Transportation (USDOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or
 - ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity

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of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;

- D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f) of this Section, or has an appropriate RCRA permit or interim status;
 - E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
 - F) The generator reports the information required in subsection (e)(2)(E)(iii) of this Section in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4) of this Section, for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B) of this Section, subject to the limitations of subsection (e)(3)(C) of this Section:
- A) In response to requests for authorization to ship, store, and conduct

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further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.

- B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
- C) The additional quantities allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) of this Section are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F) of this Section. The generator or sample collector must apply to the Agency and provide in writing the following information:
- i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
 - ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
 - iii) A description of the technical modifications or change in

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specifications that will be evaluated and the expected results;

- iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
 - v) Such other information as the Agency determines is necessary.
- 4) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act, provided that the requirements of subsections (f)(1) through (f)(11) of this Section are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11) of this Section. Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.
- 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
 - 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
 - 3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment

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from the generator or sample collector.

- 4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.
- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
 - A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of "as received" waste in storage each day;
 - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

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- F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:
- A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
 - B) The types (by process) of treatability studies conducted;
 - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
 - D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e) of this Section.

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- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:

"Dredged material" has the meaning ascribed it in 40 CFR 232.2 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

"Permit" means any of the following:

A permit issued by the U.S. Army Corps of Engineers (Army Corps) under section 404 of the Federal Water Pollution Control Act (33 USC 1344);

A permit issued by the Army Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC 1413); or

In the case of Army Corps civil works projects, the administrative equivalent of the permits referred to in the preceding two paragraphs of this definition, as provided for in Army Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators

- a) A generator is a conditionally exempt small quantity generator in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month.
- b) Except for those wastes identified in subsections (e), (f), (g), and (j) of this Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through ~~726,~~ and 728, and the notification requirements of section 3010 of Resource

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Conservation and Recovery Act, provided the generator complies with ~~the requirements of~~ subsections (f), (g), and (j) of this Section.

- c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:
- 1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;
 - 2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;
 - 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);
 - 4) Hazardous waste that is used oil managed ~~pursuant to~~ ~~the requirements of~~ Section 721.106(a)(4) and 35 Ill. Adm. Code 739;
 - 5) Hazardous waste that is spent lead-acid batteries managed ~~pursuant to~~ ~~the requirements of~~ Subpart G of 35 Ill. Adm. Code 726; and
 - 6) Hazardous waste that is universal waste managed ~~pursuant to~~ ~~under~~ Section 721.109 and 35 Ill. Adm. Code 733.
- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
- 1) Hazardous waste when it is removed from on-site storage;
 - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
 - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities

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greater than those set forth in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, and 722 through ~~726, and~~ 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act.

- 1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e); or
- 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of greater than 1,000 kg of non-acute hazardous waste in a calendar month.

- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:
 - 1) 35 Ill. Adm. Code 722.111.
 - 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through ~~726, and~~ 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
 - 3) A conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;

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- B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
- C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
- D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to ~~the requirements of~~ federal 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills one of the following conditions:
 - i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or
 - ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to ~~the requirements of~~ 35 Ill. Adm.

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Code 733 or federal 40 CFR 273.

- g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:
- 1) 35 Ill. Adm. Code 722.111;
 - 2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If it accumulates at any time more than a total of 1,000 kilograms of the generator's hazardous waste, all of those accumulated wastes are subject to regulation pursuant to ~~under~~ the special provisions of 35 Ill. Adm. Code 722 applicable to generators of between 100 kg and 1,000 kg of hazardous waste in a calendar month, as well as ~~the requirements of~~ 35 Ill. Adm. Code 702, 703, and 723 through ~~726, and~~ 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed 1,000 kilograms;
 - 3) A conditionally exempt small quantity generator may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
 - D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;

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- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to ~~the requirements of~~ federal 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills the following conditions:
- i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
 - ii) It treats its waste prior to beneficial use or re-use or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to ~~the requirements of~~ 35 Ill. Adm. Code 733 or federal 40 CFR 273.

- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.
- i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.

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- j) If a conditionally exempt small quantity generator's hazardous wastes are mixed with used oil, the mixture is subject to 35 Ill. Adm. Code 739. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

Section 721.107 Residues of Hazardous Waste in Empty Containers

- a) Applicability of rules.
- 1) Any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in subsection (b) of this Section, is not subject to regulation under 35 Ill. Adm. Code 702, 703, or 721 through ~~725, or~~ 728, or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act.
 - 2) Any hazardous waste in either a container that is not empty or an inner liner that is removed from a container that is not empty, as defined in subsection (b) of this Section, is subject to regulations under 35 Ill. Adm. Code 702, 703, and 721 through ~~725, and~~ 728 and to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act.
- b) Definition of "empty":
- 1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in Sections 721.131, 721.132, or 721.133(e), is empty if the conditions of subsections (b)(1)(A) and (b)(1)(B) of this Section exist, subject to the limitations of subsection (b)(1)(C) of this Section:
 - A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, and
 - B) No more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner, or

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- C) Weight limits.
- i) No more than three percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons (416 liters) in size, until September 5, 2006, or 119 gallons (450 liters) in size, effective September 5, 2006; or
 - ii) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons (416 liters) in size, until September 5, 2006, or 119 gallons (450 liters) in size, effective September 5, 2006.
- 2) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches ambient atmospheric pressure.
- 3) A container or an inner liner removed from a container that has held an acute hazardous waste listed in Section 721.131, 721.132, or 721.133(e) is empty if any of the following occurs:
- A) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;
 - B) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or
 - C) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

Section 721.108 PCB Wastes Regulated under TSCA

Polychlorinatedbiphenyl-(PCB-)containing dielectric fluid and electric equipment containing such fluid are exempt from regulation under 35 Ill. Adm. Code 702, 703, [and](#) 721 through [725](#),

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~~and~~ 728, and from the notification requirements of Section 3010 of the Resource Conservation and Recovery Act if the following conditions are fulfilled with regard to the fluid:

- a) The fluid is authorized for use and regulated pursuant to federal 40 CFR 761; and
- b) The fluid is hazardous only because it fails the test for toxicity characteristic (hazardous waste codes D018 through D043 only).

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

Section 721.109 Requirements for Universal Waste

The wastes listed in this Section are exempt from regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, except as specified in 35 Ill. Adm. Code 733, and are therefore not fully regulated as hazardous waste. The following wastes are subject to regulation under 35 Ill. Adm. Code 733:

- a) Batteries, as described in 35 Ill. Adm. Code 733.102;
- b) Pesticides, as described in 35 Ill. Adm. Code 733.103;
- c) Mercury-containing equipment, ~~Thermostats~~, as described in 35 Ill. Adm. Code 733.104; and
- d) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~
- e) ~~Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.~~
~~BOARD NOTE: Subsection (e) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section 721.120 General

- a) A solid waste, as defined in Section 721.102, which is not excluded from regulation as a hazardous waste under Section 721.104(b), is a hazardous waste if it exhibits any of the characteristics identified in this Subpart C.

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BOARD NOTE: 35 Ill. Adm. Code 722.111 sets forth the generator's responsibility to determine whether the generator's waste exhibits one or more characteristics identified in this Subpart C.

- b) A hazardous waste that is identified by a characteristic in this Subpart C is assigned every USEPA hazardous waste number that is applicable as set forth in this Subpart C. This number must be used in complying with the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6910) and all applicable recordkeeping and reporting requirements under 35 Ill. Adm. Code 702, 703, and 722 through ~~726 and~~ 728.
- c) For purposes of this Subpart C, a sample obtained using any of the applicable sampling methods specified in Appendix A of this Part is a representative sample within the meaning of 35 Ill. Adm. Code 720.

BOARD NOTE: Since the Appendix A sampling methods are not being formally adopted, a person who desires to employ an alternative sampling method is not required to demonstrate the equivalency of the person's method under the procedures set forth in 35 Ill. Adm. Code 720.121.

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

SUBPART D: LISTS OF HAZARDOUS WASTE

Section 721.130 General

- a) A solid waste is a hazardous waste if it is listed in this Subpart D, unless it has been excluded from this list pursuant to 35 Ill. Adm. Code 720.120 and 720.122.
- b) The basis for listing the classes or types of wastes listed in this Subpart D is indicated by employing one or more of the following hazard codes:
- 1) Hazard Codes.
 - A) Ignitable waste (I)
 - B) Corrosive waste (C)
 - C) Reactive waste (R)

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- D) Toxicity Characteristic waste (E)
- E) Acute Hazardous waste (H)
- F) Toxic waste (T)
- 2) Appendix G of this Part identifies the constituent that caused the Administrator to list the waste as a toxicity characteristic waste (E) or toxic waste (T) in Sections 721.131 and 721.132.
- c) Each hazardous waste listed in this Subpart D is assigned a USEPA hazardous waste number that precedes the name of the waste. This number must be used in complying with the federal notification requirements of section 3010 of RCRA (42 USC 6910) and certain recordkeeping and reporting requirements under 35 Ill. Adm. Code 702, 703, and 722 through ~~725, and 728~~ and federal 40 CFR 122.
- d) The following hazardous wastes listed in Section 721.131 or 721.132 are subject to the exclusion limits for acute hazardous wastes established in Section 721.105: hazardous wastes numbers F020, F021, F022, F023, F026, and F027.

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

Section 721.138 Comparable or Syngas Fuel Exclusion

Wastes that meet the following comparable or syngas fuel requirements are not solid wastes:

- a) Comparable fuel specifications.
- 1) Physical specifications.
- A) Heating value. The heating value must exceed 5,000 Btu/lb (11,500 J/g).
- B) Viscosity. The viscosity must not exceed 50 cs, as fired.
- 2) Constituent specifications. For the compounds listed, the constituent specification levels and minimum required detection limits (where non-detect is the constituent specification) are set forth in the table at subsection (d) of this Section.

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- b) Synthesis gas fuel specification. Synthesis gas fuel (i.e., syngas fuel) that is generated from hazardous waste must fulfill the following requirements:
- 1) It must have a minimum Btu value of 100 Btu/Scf;
 - 2) It must contain less than 1 ppmv of total halogen;
 - 3) It must contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N₂);
 - 4) It must contain less than 200 ppmv of hydrogen sulfide; and
 - 5) It must contain less than 1 ppmv of each hazardous constituent in the target list of constituents listed in Appendix H of this Part.
- c) Implementation. Waste that meets the comparable or syngas fuel specifications provided by subsection (a) or (b) of this Section (these constituent levels must be achieved by the comparable fuel when generated, or as a result of treatment or blending, as provided in subsection (c)(3) or (c)(4) of this Section) is excluded from the definition of solid waste provided that the following requirements are met:
- 1) Notices. For purposes of this Section, the person claiming and qualifying for the exclusion is called the comparable or syngas fuel generator and the person burning the comparable or syngas fuel is called the comparable or syngas burner. The person that generates the comparable fuel or syngas fuel must claim and certify to the exclusion.
 - A) Notice to the Agency.
 - i) The generator must submit a one-time notice to the Agency, certifying compliance with the conditions of the exclusion and providing documentation, as required by subsection (c)(1)(A)(iii) of this Section;
 - ii) If the generator is a company that generates comparable or syngas fuel at more than one facility, the generator must specify at which sites the comparable or syngas fuel will be generated;

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- iii) A comparable or syngas fuel generator's notification to the Agency must contain the items listed in subsection (c)(1)(C) of this Section.
- B) Public notice. Prior to burning an excluded comparable or syngas fuel, the burner must publish in a major newspaper of general circulation, local to the site where the fuel will be burned, a notice entitled "Notification of Burning a Comparable or Syngas Fuel Excluded Under the Resource Conservation and Recovery Act" containing the following information:
- i) The name, address, and USEPA identification number of the generating facility;
 - ii) The name and address of the units that will burn the comparable or syngas fuel;
 - iii) A brief, general description of the manufacturing, treatment, or other process generating the comparable or syngas fuel;
 - iv) An estimate of the average and maximum monthly and annual quantity of the waste claimed to be excluded; and
 - v) The name and mailing address of the Agency office to which the claim was submitted.
- C) Required content of comparable or syngas notification to the Agency.
- i) The name, address, and USEPA identification number of the person or facility claiming the exclusion;
 - ii) The applicable USEPA hazardous waste codes for the hazardous waste;
 - iii) The name and address of the units that meet the requirements of subsection (c)(2) of this Section that will burn the comparable or syngas fuel; and

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- iv) The following statement, signed and submitted by the person claiming the exclusion or its authorized representative:

Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of 35 Ill. Adm. Code 721.138 have been met for all waste identified in this notification. Copies of the records and information required by 35 Ill. Adm. Code 721.138(c)(10) are available at the comparable or syngas fuel generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information 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.

BOARD NOTE: Subsections (c)(1)(C)(i) through (c)(1)(C)(iv) are derived from 40 CFR 261.138(c)(1)(i)(C)(1) and (c)(1)(i)(C)(4), which the Board has codified here to comport with Illinois Administrative Code format requirements.

- 2) Burning. The comparable or syngas fuel exclusion for fuels that meet the requirements of subsections (a) or (b) and (c)(1) of this Section applies only if the fuel is burned in the following units that also must be subject to federal, State, and local air emission requirements, including all applicable federal Clean Air Act (CAA) maximum achievable control technology (MACT) requirements:
- A) Industrial furnaces, as defined in 35 Ill. Adm. Code 720.110;
- B) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are further defined as follows:
- i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed

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into new products, including the component parts of products, by mechanical or chemical processes; or

- ii) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;
 - C) Hazardous waste incinerators subject to regulation ~~under~~ pursuant Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725 or applicable CAA MACT standards.
 - D) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.
- 3) Blending to meet the viscosity specification. A hazardous waste blended to meet the viscosity specification must fulfill the following requirements:
- A) As generated and prior to any blending, manipulation, or processing, the waste must meet the constituent and heating value specifications of subsections (a)(1)(A) and (a)(2) of this Section;
 - B) The waste must be blended at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 724 and 725 or 35 Ill. Adm. Code 722.134; and
 - C) The waste must not violate the dilution prohibition of subsection (c)(6) of this Section.
- 4) Treatment to meet the comparable fuel exclusion specifications.
- A) A hazardous waste may be treated to meet the exclusion specifications of subsections (a)(1) and (a)(2) of this Section provided the treatment fulfills the following requirements:
 - i) The treatment destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;
 - ii) The treatment is performed at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 724 and 725 or 35 Ill. Adm. Code 722.134; and

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- iii) The treatment does not violate the dilution prohibition of subsection (c)(6) of this Section.
 - B) Residuals resulting from the treatment of a hazardous waste listed in Subpart D of this Part to generate a comparable fuel remain a hazardous waste.
- 5) Generation of a syngas fuel.
 - A) A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of subsection (b) of this Section provided the processing fulfills the following requirements:
 - i) The processing destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying constituents or materials;
 - ii) The processing is performed at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 724 and 725 or 35 Ill. Adm. Code 722.134 or is an exempt recycling unit pursuant to Section 721.106(c); and
 - iii) The processing does not violate the dilution prohibition of subsection (c)(6) of this Section.
 - B) Residuals resulting from the treatment of a hazardous waste listed in Subpart D of this Part to generate a syngas fuel remain a hazardous waste.
- 6) Dilution prohibition for comparable and syngas fuels. No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility must in any way dilute a hazardous waste to meet the exclusion specifications of subsection (a)(1)(A), (a)(2), or (b) of this Section.
- 7) Waste analysis plans. The generator of a comparable or syngas fuel must develop and follow a written waste analysis plan that describes the procedures for sampling and analysis of the hazardous waste to be

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excluded. The plan must be followed and retained at the facility excluding the waste.

- A) At a minimum, the plan must specify the following:
- i) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of those parameters;
 - ii) The test methods that will be used to test for these parameters;
 - iii) The sampling method that will be used to obtain a representative sample of the waste to be analyzed;
 - iv) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up to date; and
 - v) If process knowledge is used in the waste determination, any information prepared by the generator in making such determination.
- B) The waste analysis plan must also contain records of the following:
- i) The dates and times waste samples were obtained, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons who obtained the samples;
 - iii) A description of the temporal and spatial locations of the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any clean-up and sample preparation methods;

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- vi) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan that occurred;
 - vii) All laboratory results demonstrating that the exclusion specifications have been met for the waste; and
 - viii) All laboratory documentation that supports the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in subsection (c)(11) of this Section and also provides for the availability of the documentation to the claimant upon request.
- C) Syngas fuel generators must submit for approval, prior to performing sampling, analysis, or any management of a syngas fuel as an excluded waste, a waste analysis plan containing the elements of subsection (c)(7)(A) of this Section to the Agency. The approval of waste analysis plans must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the waste analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.
- 8) Comparable fuel sampling and analysis.
- A) General. For each waste for which an exclusion is claimed, the generator of the hazardous waste must test for all the constituents on Appendix H of this Part, except those that the generator determines, based on testing or knowledge, should not be present in the waste. The generator is required to document the basis of each determination that a constituent should not be present. The generator may not determine that any of the following categories of constituents should not be present:
 - i) A constituent that triggered the toxicity characteristic for the waste constituents that were the basis of the listing of

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the waste stream, or constituents for which there is a treatment standard for the waste code in 35 Ill. Adm. Code 728.140;

- ii) A constituent detected in previous analysis of the waste;
 - iii) Constituents introduced into the process that generates the waste; or
 - iv) Constituents that are byproducts or side reactions to the process that generates the waste.
- B) For each waste for which the exclusion is claimed where the generator of the comparable or syngas fuel is not the original generator of the hazardous waste, the generator of the comparable or syngas fuel may not use process knowledge pursuant to subsection (c)(8)(A) of this Section and must test to determine that all of the constituent specifications of subsections (a)(2) and (b) of this Section have been met.
- C) The comparable or syngas fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the waste. For the waste to be eligible for exclusion, a generator must demonstrate the following:
- i) That each constituent of concern is not present in the waste above the specification level at the 95 percent upper confidence limit around the mean; and
 - ii) That the analysis could have detected the presence of the constituent at or below the specification level at the 95 percent upper confidence limit around the mean.
- D) Nothing in this subsection (c)(8) preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person that generates a solid waste to determine if that waste is a hazardous waste.

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- E) In an enforcement action, the burden of proof to establish conformance with the exclusion specification must be on the generator claiming the exclusion.
- F) The generator must conduct sampling and analysis in accordance with its waste analysis plan developed ~~pursuant to~~ ~~under~~ subsection (c)(7) of this Section.
- G) Syngas fuel and comparable fuel that has not been blended in order to meet the kinematic viscosity specifications must be analyzed as generated.
- H) If a comparable fuel is blended in order to meet the kinematic viscosity specifications, the generator must undertake the following actions:
- i) Analyze the fuel as generated to ensure that it meets the constituent and heating value specifications; and
 - ii) After blending, analyze the fuel again to ensure that the blended fuel continues to meet all comparable or syngas fuel specifications.
- I) Excluded comparable or syngas fuel must be retested, at a minimum, annually and must be retested after a process change that could change the chemical or physical properties of the waste.

BOARD NOTE: Any claim ~~pursuant to~~ ~~under~~ this ~~Section~~ ~~section~~ must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the waste above the exclusion specifications.

- 9) Speculative accumulation. Any persons handling a comparable or syngas fuel are subject to the speculative accumulation test ~~pursua nt~~ ~~under~~ Section 721.102(c)(4).
- 10) Records. The generator must maintain records of the following information on-site:

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- A) All information required to be submitted to the implementing authority as part of the notification of the claim:
- i) The owner or operator name, address, and RCRA facility USEPA identification number of the person claiming the exclusion;
 - ii) The applicable USEPA hazardous waste codes for each hazardous waste excluded as a fuel; and
 - iii) The certification signed by the person claiming the exclusion or his authorized representative;
- B) A brief description of the process that generated the hazardous waste and process that generated the excluded fuel, if not the same;
- C) An estimate of the average and maximum monthly and annual quantities of each waste claimed to be excluded;
- D) Documentation for any claim that a constituent is not present in the hazardous waste, as required ~~pursuant to~~ subsection (c)(8)(A) of this Section;
- E) The results of all analyses and all detection limits achieved, as required ~~pursuant to~~ subsection (c)(8) of this Section;
- F) If the excluded waste was generated through treatment or blending, documentation, as required ~~pursuant to~~ subsection (c)(3) or (c)(4) of this Section;
- G) If the waste is to be shipped off-site, a certification from the burner, as required ~~pursuant to~~ subsection (c)(12) of this Section;
- H) A waste analysis plan and the results of the sampling and analysis that include the following:
- i) The dates and times waste samples were obtained, and the dates the samples were analyzed;

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- ii) The names and qualifications of the persons that obtained the samples;
 - iii) A description of the temporal and spatial locations of the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any clean-up and sample preparation methods;
 - vi) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan that occurred;
 - vii) All laboratory analytical results demonstrating that the exclusion specifications have been met for the waste; and
 - viii) All laboratory documentation that supports the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in subsection (c)(11) of this Section and also provides for the availability of the documentation to the claimant upon request; and
- I) If the generator ships comparable or syngas fuel off-site for burning, the generator must retain for each shipment the following information on-site:
- i) The name and address of the facility receiving the comparable or syngas fuel for burning;
 - ii) The quantity of comparable or syngas fuel shipped and delivered;

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- iii) The date of shipment or delivery;
 - iv) A cross-reference to the record of comparable or syngas fuel analysis or other information used to make the determination that the comparable or syngas fuel meets the specifications, as required pursuant to~~under~~ subsection (c)(8) of this Section; and
 - v) A one-time certification by the burner, as required pursuant to~~under~~ subsection (c)(12) of this Section.
- 11) Records retention. Records must be maintained for the period of three years. A generator must maintain a current waste analysis plan during that three-year period.
- 12) Burner certification. Prior to submitting a notification to the Agency, a comparable or syngas fuel generator that intends to ship its fuel off-site for burning must obtain a one-time written, signed statement from the burner that includes the following:
- A) A certification that the comparable or syngas fuel will only be burned in an industrial furnace or boiler, utility boiler, or hazardous waste incinerator, as required pursuant to~~under~~ subsection (c)(2) of this Section;
 - B) Identification of the name and address of the units that will burn the comparable or syngas fuel; and
 - C) A certification that the state in which the burner is located is authorized to exclude wastes as comparable or syngas fuel under the provisions of 40 CFR 261.38~~this Section~~.
- 13) Ineligible waste codes. Wastes that are listed because of presence of dioxins or furans, as set out in Appendix G of this Part, are not eligible for this exclusion, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to full RCRA hazardous waste management requirements.
- d) Table Y of this Part sets forth the table of detection and detection limit values for comparable fuel specification.

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(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

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Section 721.APPENDIX I Wastes Excluded by Administrative Action**Section 721.TABLE B Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Specific Sources**

Facility Address	Waste Description
Amoco Oil Company Wood River, Illinois	150 million gallons of DAF float from petroleum refining contained in four surge ponds after treatment with the Chemfix stabilization process. This waste contains USEPA hazardous waste number K048. This exclusion applies to the 150 million gallons of waste after chemical stabilization as long as the mixing ratios of the reagent with the waste are monitored continuously and do not vary outside of the limits presented in the demonstration samples and one grab sample is taken each hour from each treatment unit, composited, and TCLP tests performed on each sample. If the levels of lead or total chromium exceed 0.5 ppm in the EP extract, then the waste that was processed during the compositing period is considered hazardous; the treatment residue must be pumped into bermed cells to ensure that the waste is identifiable in the event that removal is necessary.
Conversion Systems, Inc. Horsham, Pennsylvania (Sterling, Illinois operations)	Chemically stabilized electric arc furnace dust (CSEAFD) that is generated by Conversion Systems, Inc. (CSI) (using the Super Detox [®] treatment process, as modified by CSI to treat electric arc furnace dust (EAFD) (USEPA hazardous waste no. K061)), at the following site and which is disposed of in a RCRA Subtitle D municipal solid waste landfill (MSWLF): Northwestern Steel, Sterling, Illinois. CSI must implement a testing program for each site that meets the following conditions: 1. Verification testing requirements: Sample collection and analyses, including quality control procedures, must be performed according to using appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,"

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USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), must be used without substitution. As applicable, the EPA-530/SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses USEPA Method 1664, Rev. A), 9071B, and 9095B.

A. Initial verification testing: During the first 20 days of full-scale operation of a newly-constructed Super Detox[®] treatment facility, CSI must analyze a minimum of four composite samples of CSEAFD representative of the full 20-day period. Composite samples must be composed of representative samples collected from every batch generated. The CSEAFD samples must be analyzed for the constituents listed in condition 3 below. CSI must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 60 days after the generation of the first batch of CSEAFD.

B. Addition of new Super Detox[®] treatment facilities to the exclusion:

Option 1: If USEPA approves additional facilities, CSI may petition the Board for identical-in substance amendment of this exclusion pursuant to Section 22.4 for the Act and 35 Ill. Adm. Code 102 and 720.120(a), or

Option 2: If USEPA has not approved such amendment, CSI may petition the Board for amendment pursuant to the general rulemaking procedures of Section 27 of the Act and 35 Ill. Adm. Code 102 and 720.120(b); or

Option 3: Alternatively to options 1 or 2 above, CSI may petition the Board for a hazardous waste delisting pursuant to Section 28.1 of the Act and Subpart D of 35

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Ill. Adm. Code 104 and 35 Ill. Adm. Code 720.122.

If CSI pursues general rulemaking (option 2 above) or hazardous waste delisting (option 3 above), it must demonstrate that the CSEAFD generated by a specific Super Detox[®] treatment facility consistently meets the delisting levels specified in condition 3 below.

- C. Subsequent verification testing: For the approved facility, CSI must collect and analyze at least one composite sample of CSEAFD each month. The composite samples must be composed of representative samples collected from all batches treated in each month. These monthly representative samples must be analyzed, prior to the disposal of the CSEAFD, for the constituents listed in condition 3 below. CSI may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are non-hazardous nonhazardous.
2. Waste holding and handling: CSI must store as hazardous all CSEAFD generated until verification testing, as specified in condition 1A or 1C above, as appropriate, is completed and valid analyses demonstrate that condition 3 below is satisfied. If the levels of constituents measured in the samples of CSEAFD do not exceed the levels set forth in condition 3, then the CSEAFD is non-hazardous nonhazardous and may be disposed of in a RCRA Subtitle D municipal solid waste landfill. If constituent levels in a sample exceed any of the delisting levels set forth in condition 3 below, the CSEAFD generated during the time period corresponding to this sample must be retreated until it meets these levels or managed and disposed of as hazardous waste, in accordance with 35 Ill. Adm. Code 702 through 705, 720 through ~~726, 728, and 733, 738, and 739~~. CSEAFD generated by a new CSI treatment facility must be managed as a hazardous waste prior to the addition of the name and location of the facility to this exclusion pursuant to condition 1C above. After addition of the new facility to the exclusion pursuant to

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condition 1B above, CSEAFD generated during the verification testing in condition 1A is also non-hazardous if the delisting levels in condition 3 are satisfied.

3. Delisting levels: All leachable concentrations for metals must not exceed the following levels (in parts per million (ppm)): antimony – 0.06; arsenic – 0.50; barium – 7.6; beryllium – 0.010; cadmium – 0.050; chromium – 0.33; lead – 0.15; mercury – 0.009; nickel – 1; selenium – 0.16; silver – 0.30; thallium – 0.020; vanadium – 2; and zinc – 70. Metal concentrations must be measured in the waste leachate by the method specified in Section 721.124.
4. Changes in operating conditions: After initiating subsequent testing, as described in condition 1C, if CSI significantly changes the stabilization process established pursuant to ~~under~~ condition 1 (e.g., use of new stabilization reagents), CSI must seek amendment of this exclusion using one of the options set forth in condition 1B above. After written amendment of this exclusion, CSI may manage CSEAFD wastes generated from the new process as ~~non-hazardous~~ non-hazardous if the wastes meet the delisting levels set forth in condition 3 above.
5. Data submittals: At least one month prior to operation of a new Super Detox[®] treatment facility, CSI must notify the Agency in writing when the Super Detox[®] treatment facility is scheduled to be on-line. The data obtained through condition 1A must be submitted to the Agency within the time period specified. Records of operating conditions and analytical data from condition 1 must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished to the Agency upon request and made available for inspection. Failure to submit the required data within the specified time period or to maintain the required records on site for the specified time will be considered a violation of the Act and Board regulations. All data submitted must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data

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submitted:

"Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete.

"As to (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete.

"In the event that any of this information is determined by the Board or a court of law to be false, inaccurate, or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Board or court and that the company will be liable for any actions taken in contravention of the company's obligations under the federal RCRA and Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9601 et seq.) and corresponding provisions of the Act premised upon the company's reliance on the void exclusion."

BOARD NOTE: The obligations of this exclusion are derived from but also distinct from the obligations under the corresponding federally-granted exclusion of table 2 of appendix IX to 40 CFR 261.

(Source: Amended at 31 Ill. Reg. 791, effective December 20, 2006)

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- 1) Heading of the Part: Standards Applicable to Generators of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 722
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
722.110	Amend
722.111	Amend
722.113	New Section
722.141	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7103; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of 11/16/06, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not

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apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 722 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 April 6, 2006, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 722 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's opinion and order of 11/16/06 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 April 6, 2006 opinion and order.

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- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's opinion and order of 11/16/06, 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:

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NOTICE OF ADOPTED AMENDMENTS

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

SUBPART A: GENERAL

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

SUBPART B: THE MANIFEST

Section	
722.120	General Requirements
722.121	Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests
722.122	Number of Copies
722.123	Use of the Manifest
722.127	Waste Minimization Certification

SUBPART C: PRE-TRANSPORT REQUIREMENTS

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

SUBPART D: RECORDKEEPING AND REPORTING

Section	
722.140	Recordkeeping
722.141	Annual Reporting

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- 722.142 Exception Reporting
- 722.143 Additional Reporting
- 722.144 Special Requirements for Generators of between 100 and 1,000 kilograms per month

SUBPART E: EXPORTS OF HAZARDOUS WASTE

Section

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

SUBPART F: IMPORTS OF HAZARDOUS WASTE

Section

- 722.160 Imports of Hazardous Waste

SUBPART G: FARMERS

Section

- 722.170 Farmers

SUBPART H: TRANSFRONTIER SHIPMENTS OF
HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD

Section

- 722.180 Applicability
- 722.181 Definitions
- 722.182 General Conditions
- 722.183 Notification and Consent
- 722.184 Tracking Document
- 722.185 Contracts
- 722.186 Provisions Relating to Recognized Traders
- 722.187 Reporting and Recordkeeping

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722.189 OECD Waste Lists

722.APPENDIX A Hazardous Waste Manifest

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006.

SUBPART A: GENERAL

Section 722.110 Purpose, Scope, and Applicability

- a) This Part establishes standards for generators of hazardous waste.
- b) A generator must use 35 Ill. Adm. Code 721.105(c) and (d) to determine the applicability of provisions of this Part that are dependent on calculations of the quantity of hazardous waste generated per month.

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- c) A generator that treats, stores, or disposes of a hazardous waste on-site must comply only with the following Sections of this Part with respect to that waste: Section 722.111, for determining whether or not the generator has a hazardous waste; Section 722.112, for obtaining an USEPA identification number; Section 722.140(c) and (d), for recordkeeping; Section 722.143, for additional reporting; and Section 722.170, for farmers, if applicable.
- d) Any person that exports or imports hazardous waste that is subject to the hazardous waste manifesting requirements of this Part or the universal waste management standards of 35 Ill. Adm. Code 733, to or from countries listed in Section 722.158(a)(1) for recovery, must comply with Subpart H of this Part.
- e) Any person that imports hazardous waste into the United States must comply with the generator standards of this Part.
- f) A farmer that generates waste pesticides that are hazardous waste and ~~which that~~ complies with ~~all of the requirements of~~ Section 722.170 is not required to comply with other standards in this Part or 35 Ill. Adm. Code 702, 703, 724 ~~through, 725, or~~ 728, 733, or 739 with respect to such pesticides.
- g) A person that generates a hazardous waste, as defined by 35 Ill. Adm. Code 721, is subject to the compliance requirements and penalties prescribed in Title VIII and XII of the Environmental Protection Act if that person does not comply with ~~the requirements of~~ this Part.
- h) An owner or operator that initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this Part.
- i) A person responding to an explosives or munitions emergency in accordance with 35 Ill. Adm. Code 724.101(g)(8)(A)(iv) or (g)(8)(D) or 35 Ill. Adm. Code 725.101(c)(11)(A)(iv) or (c)(11)(D) and 35 Ill. Adm. Code 703.121(a)(4) or (c) is not required to comply with the standards of this Part.

BOARD NOTE: The provisions of Section 722.134 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of Section 722.134 only apply to ~~an owner~~owners or ~~operator~~operators that ~~is~~are shipping hazardous waste which ~~it~~they generated at that facility. A generator that treats, stores or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in 35 Ill. Adm. Code 702, 703, 724 ~~through, 725, 726, and~~ 728,

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[733, and 739.](#)

(Source: Amended at 31 Ill. Reg. 871, effective December 20, 2006)

Section 722.111 Hazardous Waste Determination

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
 - 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
 - 2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 724 ~~through, 725,~~ 728, ~~and~~ [733, and 739](#) for possible exclusions or restrictions pertaining to the management of the specific waste.

(Source: Amended at 31 Ill. Reg. 871, effective December 20, 2006)

[Section 722.113 Electronic Reporting](#)

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The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 871, effective December 20, 2006)

SUBPART D: RECORDKEEPING AND REPORTING

Section 722.141 Annual Reporting

- a) A generator that ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of an annual report to the Agency by March 1 for the preceding calendar year. The annual report must be submitted on a form supplied by the Agency, and must cover generator activities during the previous calendar year, and must include the following information:
- 1) The USEPA identification number, name, and address of the generator;
 - 2) The calendar year covered by the report;
 - 3) The USEPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;
 - 4) The name and USEPA identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility within the United States;
 - 5) A description, USEPA hazardous waste number (from Subpart C or D of 35 Ill. Adm. Code 721), USDOT hazard class and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by USEPA identification number of each off-site facility to which waste was shipped;
 - 6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

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- 7) 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
 - 8) The certification signed by the generator or the generator's authorized representative.
- b) Any generator that treats, stores, or disposes of hazardous waste on-site must submit an annual report covering those wastes in accordance with the provisions of 35 Ill. Adm. Code 702, 703 ~~and, 724 through 727, 725, and 726~~. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth at Section 722.156.

(Source: Amended at 31 Ill. Reg. 871, effective December 20, 2006)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards Applicable to Transporters of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 723
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
723.112	Amend
723.113	New Section
723.120	Amend
723.130	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7113; April 21, 2006
- 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 11/16/06, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated 4/6/06, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not

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apply to this rulemaking. Because these rulemakings are not subject to Section 5-35 of the IAPA, they are not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the April 21, 2006 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 723 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 723 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's opinion and order of 11/16/06 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

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Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's opinion and order of 11/16/06, 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:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 723
STANDARDS APPLICABLE TO
TRANSPORTERS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section	Scope
723.110	Scope
723.111	USEPA Identification Number
723.112	Transfer Facility Requirements
723.113	Electronic Reporting

SUBPART B: COMPLIANCE WITH THE MANIFEST
SYSTEM AND RECORDKEEPING

Section	Scope
723.120	The Manifest System
723.121	Compliance with the Manifest
723.122	Recordkeeping

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section	Scope
723.130	Immediate Action
723.131	Discharge Cleanup

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R84-9, at 9 Ill. Reg. 11961, effective July 24, 1985; amended in R86-19, at 10 Ill. Reg. 20718, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective

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December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965, effective September 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 881, effective December 20, 2006.

SUBPART A: GENERAL

Section 723.112 Transfer Facility Requirements

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less is not subject to regulations under 35 Ill. Adm. Code 702, 703, or 724 through, 725 or 728 with respect to the storage of those wastes.

(Source: Amended at 31 Ill. Reg. 881, effective December 20, 2006)

Section 723.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 881, effective December 20, 2006)

SUBPART B: COMPLIANCE WITH THE MANIFEST
SYSTEM AND RECORDKEEPING**Section 723.120 The Manifest System**

- a) No acceptance without a manifest.
 - 1) The following manifest requirements apply until September 5, 2006:
 - A) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of 35 Ill. Adm. Code 722.120. In the case of exports other than those subject to Subpart H of 35 Ill. Adm. Code 722. Subpart H, a transporter may not accept such waste from a primary exporter or other person:

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- i) If the transporter knows the shipment does not conform with the USEPA Acknowledgement of Consent (as defined in 35 Ill. Adm. Code 722.151); and
 - ii) Unless, in addition to a manifest signed in accordance with 35 Ill. Adm. Code 722.120, the waste is also accompanied by a USEPA Acknowledgement of Consent ~~that~~which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).
 - B) For exports of hazardous waste subject to ~~the requirements of~~ Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a tracking document that includes all information required by 35 Ill. Adm. Code 722.184.
- 2) The following manifest requirements apply effective September 5, 2006:
 - A) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the provisions of 35 Ill. Adm. Code 723.123.
 - B) Exports.
 - i) In the case of exports other than those subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept such waste from a primary exporter or other person if the transporter knows that the shipment does not conform to the USEPA Acknowledgement of Consent; and unless, in addition to a manifest signed by the generator as provided in this Section, the transporter must also be provided with a USEPA Acknowledgement of Consent that, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).
 - ii) For exports of hazardous waste subject to ~~the requirements of~~ Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a tracking document

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that includes all information required by 35 Ill. Adm. Code 722.184.

BOARD NOTE: Subsection (a)(1) corresponds with 40 CFR 263.20(a) (2004), effective until September 5, 2006. Subsection (a)(2) corresponds with 40 CFR 263.20(a) (2005), effective September 5, 2006. The Board omitted 40 CFR 263.20(a)(3) (2005), since that provision merely stated the September 5, 2006 effective date for the newer manifest requirements.

- b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
- c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the USEPA Acknowledgement of Consent also accompanies the hazardous waste.
- d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:
 - 1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;
 - 2) It must retain one copy of the manifest in accordance with Section 723.122; and
 - 3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.
- e) Subsections ~~The requirements of subsections~~ (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:
 - 1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;
 - 2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports, a USEPA

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Acknowledgement of Consent accompanies the hazardous waste;

- 3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;
 - 4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and
 - 5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 723.122.
- f) For shipments involving rail transportation, the following requirements apply instead of ~~the requirements of~~ subsections (c), (d), and (e), which do not apply:
- 1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must do the following:
 - A) It must sign and date the manifest acknowledging acceptance of the hazardous waste;
 - B) It must return a signed copy of the manifest to the non-rail transporter;
 - C) It must forward at least three copies of the manifest to the following entities:
 - i) The next non-rail transporter, if any;
 - ii) The designated facility, if the shipment is delivered to that facility by rail; or
 - iii) The last rail transporter designated to handle the waste in the United States;
 - D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.

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- 2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste at all times.

BOARD NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.

- 3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:
 - A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and
 - B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.
- 4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:
 - A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and
 - B) It must retain a copy of the manifest in accordance with Section 723.122.
- 5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.
- g) Transporters that transport hazardous waste out of the United States must do the following:
 - 1) Until September 5, 2006:
 - A) Indicate on the manifest the date the hazardous waste left the United States;

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- B) Sign the manifest and retain one copy in accordance with Section 723.122(c);
 - C) Return a signed copy of the manifest to the generator; and
 - D) Give a copy of the manifest to a United States Customs official at the point of departure from the United States.
- 2) Effective September 5, 2006:
- A) Sign and date the manifest in the International Shipments block to indicate the date that the hazardous waste left the United States;
 - B) Retain one copy in accordance with Section 723.122(d);
 - C) Return a signed copy of the manifest to the generator; and
 - D) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

BOARD NOTE: Subsections (g)(1)(A) through (g)(1)(B) correspond with 40 CFR 263.20(g) (2004). Subsections (g)(2)(A) through (g)(2)(B) correspond with 40 CFR 263.20(g) (2005). The Board added subsections (g)(1) and (g)(2), reciting the effective dates, based on 40 CFR 263.20(a)(3) (2005).

- h) A transporter transporting hazardous waste from a generator that generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month need not comply with ~~the requirements of~~ this Section or ~~those of~~ Section 723.122 provided that:
- 1) The waste is being transported pursuant to a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);
 - 2) The transporter records, on a log or shipping paper, the following information for each shipment:
 - A) The name, address and USEPA Identification Number (35 Ill. Adm. Code 722.112) of the generator of the waste;

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- B) The quantity of waste accepted;
 - C) All shipping information required by the United States Department of Transportation;
 - D) The date the waste is accepted; and
- 3) The transporter carries this record when transporting waste to the reclamation facility; and
 - 4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(Source: Amended at 31 Ill. Reg. 881, effective December 20, 2006)

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section 723.130 Immediate Action

- a) In the event of a discharge of hazardous waste during transportation, the transporter must take appropriate immediate action to [adequately](#) protect human health and the environment (e.g., notify local authorities, dike the discharge area).
- b) If a discharge of hazardous waste occurs during transportation and an official (of state or local government or of a federal agency) acting within the scope of his or her official responsibilities determines that immediate removal of the waste is necessary to [adequately](#) protect human health or the environment, that official may authorize the removal of the waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest.
- c) An air, rail, highway, or water transporter that has discharged hazardous waste must:
 - 1) Give notice to the National Response Center (800-424-8802 or 202-426-2675), if required by 49 CFR 171.15 (Immediate Notice of Certain Hazardous Materials Incidents), incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 2) Report in writing to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of

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Transportation, Washington, D.C. 20590, as required by 49 CFR 171.16 (Detailed Hazardous Materials Incident Reports), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and

- 3) Give notice to the following State agency:

Illinois Emergency Management Agency
110 East Adams
Springfield, Illinois 62706
217-782-7860

- d) A water (bulk shipment) transporter that has discharged hazardous waste must give the same notice as required by 33 CFR 153.203 (Procedure for the Notice of Discharge), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for oil and hazardous substances.

(Source: Amended at 31 Ill. Reg. 881, effective December 20, 2006)

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- 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)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
724.101	Amend
724.104	New Section
724.156	Amend
724.190	Amend
724.191	Amend
724.197	Amend
724.200	Amend
724.201	Amend
724.210	Amend
724.211	Amend
724.212	Amend
724.213	Amend
724.217	Amend
724.219	Amend
724.240	Amend
724.245	Amend
724.247	Amend
724.275	Amend
724.293	Amend
724.331	Amend
724.359	Amend
724.372	Amend
724.383	Amend
724.417	Amend
724.440	Amend
724.451	Amend
724.651	Amend
724.652	Amend
724.653	Amend
724.654	Amend
724.671	Amend
724.701	Amend
724.702	Amend
724.931	Amend

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724.951 Amend

724.981 Amend

- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The rulemaking includes amendments to incorporations by reference. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The amendments to the incorporations at 35 Ill. Adm. Code 720.111 include updates to materials incorporated for the purposes of Part 724, including incorporations necessary to implement the amendments to the federal Hazardous Waste Combustor Rule.
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7125; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to the rulemaking? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not

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apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 724 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 724 implement segments of the August 5, 2005, October 12, 2005, and October 13, 2005 federal amendments. The amendments incorporate elements of the Mercury-Containing Device Rule and the amendments to the Hazardous Waste Combustor Rule into the RCRA Subtitle C treatment, storage, and disposal facility regulations. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's 11/16/06 opinion and order 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.

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Persons interested in the details of those corrections and amendments should refer to the 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be adopted to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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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

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SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

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

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section

724.170	Applicability
724.171	Use of Manifest System
724.172	Manifest Discrepancies
724.173	Operating Record
724.174	Availability, Retention, and Disposition of Records
724.175	Annual Report
724.176	Unmanifested Waste Report
724.177	Additional Reports

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section

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

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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

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- 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

SUBPART L: WASTE PILES

- Section
724.350 Applicability

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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

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- 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

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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
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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
724.987	Standards: Closed-Vent Systems and Control Devices
724.988	Inspection and Monitoring Requirements
724.989	Recordkeeping Requirements
724.990	Reporting Requirements
724.991	Alternative Control Requirements for Tanks (Repealed)

SUBPART DD: CONTAINMENT BUILDINGS

Section

724.1100	Applicability
724.1101	Design and Operating Standards
724.1102	Closure and Post-Closure Care

SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

Section

724.1200	Applicability
724.1201	Design and Operating Standards
724.1202	Closure and Post-Closure Care

724.APPENDIX A	Recordkeeping Instructions
724.APPENDIX B	EPA Report Form and Instructions (Repealed)
724.APPENDIX D	Cochran's Approximation to the Behrens-Fisher Student's T-Test
724.APPENDIX E	Examples of Potentially Incompatible Waste
724.APPENDIX I	Groundwater Monitoring List

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

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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.

SUBPART A: GENERAL PROVISIONS

Section 724.101 Purpose, Scope, and Applicability

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste.
- b) The standards in this Part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.
- c) ~~This~~ ~~The requirements of this~~ Part ~~applies~~ ~~apply~~ to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued ~~pursuant to~~ ~~under~~ the federal Marine Protection, Research and Sanctuaries Act (~~16 USC 1431-1434~~, 33 USC 1401 [et seq.](#)) only to the extent they are included in a RCRA permit by rule

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granted to such a person ~~pursuant to~~ 35 Ill. Adm. Code 703.141. A "RCRA permit" is a permit required by Section 21(f) of the Environmental Protection Act [415 ILCS 5/21(f)] and 35 Ill. Adm. Code 703.121.

BOARD NOTE: This Part does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

- d) ~~This~~ ~~The requirements of this~~ Part ~~applies~~ ~~apply~~ to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency pursuant to Section 12(g) of the Environmental Protection Act [415 ILCS 5/12(g)] only to the extent they are required by Subpart F of 35 Ill. Adm. Code 704.

BOARD NOTE: This Part does apply to the above-ground treatment or storage of hazardous waste before it is injected underground.

- e) ~~This~~ ~~The requirements of this~~ Part ~~applies~~ ~~apply~~ to the owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste only to the extent included in a RCRA permit by rule granted to such a person ~~pursuant to~~ 35 Ill. Adm. Code 703.141.
- f) This subsection (f) corresponds with 40 CFR 264.1(f), which provides that the federal regulations do not apply to T/S/D activities in authorized states, except under limited, enumerated circumstances. This statement maintains structural consistency with USEPA rules.
- g) ~~This~~ ~~The requirements of this~~ Part ~~does~~ ~~do~~ not apply to the following:

- 1) The owner or operator of a facility permitted by the Agency ~~pursuant to~~ Section 21 of the Environmental Protection Act [415 ILCS 5/21] to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation ~~pursuant to~~ this Part by 35 Ill. Adm. Code 721.105.

BOARD NOTE: The owner or operator may be subject to 35 Ill. Adm. Code 807 and may have to have a supplemental permit ~~pursuant to~~ 35 Ill. Adm. Code 807.210.

- 2) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4) (except to the

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extent that requirements of this Part are referred to in Subpart C, F, G, or H of 35 Ill. Adm. Code 726 or 35 Ill. Adm. Code 739).

- 3) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134.
- 4) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170.
- 5) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110.
- 6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T to 35 Ill. Adm. Code 728) or reactive (D003) waste to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 724.117(b).
- 7) This subsection (g)(7) corresponds with 40 CFR 264.1(g)(7), reserved by USEPA. This statement maintains structural consistency with USEPA rules.
- 8) Immediate response.
 - A) Except as provided in subsection (g)(8)(B) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:
 - i) A discharge of a hazardous waste;
 - ii) An imminent and substantial threat of a discharge of hazardous waste;
 - iii) A discharge of a material that becomes a hazardous waste when discharged; or
 - iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected

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presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.

- B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D of this Part.
 - C) Any person that is covered by subsection (g)(8)(A) of this Section and that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities.
 - D) In the case of an explosives or munitions emergency response, if a federal, State, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to [adequately](#) protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.
- 9) A transporter storing manifested shipments of hazardous waste in containers meeting ~~the requirements of~~ 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.
 - 10) The addition of absorbent materials to waste in a container (as defined in 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a container, provided these actions occur at the time waste is first placed in the container, and Sections 724.117(b), 724.271, and 724.272 are complied with.
 - 11) A universal waste handler or universal waste transporter (as defined in 35

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Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation ~~pursuant to~~ under 35 Ill. Adm. Code 733 when handling the following universal wastes:

- A) Batteries, as described in 35 Ill. Adm. Code 733.102;
- B) Pesticides, as described in 35 Ill. Adm. Code 733.103;
- C) Mercury-containing equipment, Thermostats, as described in 35 Ill. Adm. Code 733.104; and
- D) Lamps, as described in 35 Ill. Adm. Code 733.105; and
- E) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.

BOARD NOTE: Subsection (g)(11)(E) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).

- h) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728.
- i) 35 Ill. Adm. Code 726.505 identifies when ~~the requirements of~~ this Part apply to the storage of military munitions classified as solid waste ~~pursuant to~~ under 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and 728, and 738.~~
- j) ~~The requirements of~~ Subparts B, C, and D of this Part and Section 724.201 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional RCRA permit because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes. In these cases, Subparts B, C, and D of this Part, and Section 724.201 do apply to the facility subject to the traditional RCRA permit.) Instead of ~~the requirements of~~ Subparts B, C, and D of this Part, the owner ~~owners~~ or operators of a remediation waste management ~~sitesites~~ must comply with the following requirements:

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- 1) The owner or operator must obtain a USEPA identification number by applying to USEPA using USEPA Form 8700-12;
- 2) The owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the information that must be known to treat, store, or dispose of the waste according to this Part and 35 Ill. Adm. Code 728, and the owner or operator must keep the analysis accurate and up to date;
- 3) The owner or operator must prevent people who are unaware of the danger from entering the site, and the owner or operator must minimize the possibility for unauthorized people or livestock entering onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate the following to the Agency:
 - A) That physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock that may enter the active portion of the remediation waste management site; and
 - B) That disturbance of the waste or equipment by people or livestock that enter onto the active portion of the remediation waste management site will not cause a violation of the requirements of this Part;
- 4) The owner or operator must inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing or may lead to a release of hazardous waste constituents to the environment or a threat to human health. 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, and the owner or operator must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner or operator must immediately take remedial action;
- 5) The owner or operator must provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of this

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Part, and on how to respond effectively to emergencies;

- 6) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and the owner or operator must prevent threats to human health and the environment from ignitable, reactive, and incompatible waste;
- 7) For remediation waste management sites subject to regulation under Subparts I through O and Subpart X of this Part, the owner or operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can meet the requirements of Section 724.118(b);
- 8) The owner or operator must not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave;
- 9) The owner or operator must develop and maintain a construction quality assurance program for all surface impoundments, waste piles, and landfill units that are required to comply with Sections 724.321(c) and (d), 724.351(c) and (d), and 724.401(c) and (d) at the remediation waste management site, according to ~~the requirements of~~ Section 724.119;
- 10) The owner or operator must develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from, a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents occurs that could threaten human health or the environment;
- 11) The owner or operator must designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency

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by reaching the facility quickly), to coordinate 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 characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;

- 12) The owner or operator must develop, maintain, and implement a plan to meet the requirements in subsections (j)(2) through (j)(6) and (j)(9) through (j)(10) of this Section; and
- 13) The owner or operator must maintain records documenting compliance with subsections (j)(1) through (j)(12) of this Section.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.104 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

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.

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- b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. 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](#) ~~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](#)~~Name~~ and telephone number of reporter;
 - B) [The name](#)~~Name~~ and address of facility;
 - C) [The time](#)~~Time~~ and type of incident (e.g., release, fire);
 - D) [The name](#)~~Name~~ and quantity of materials involved, to the extent known;
 - E) The extent of injuries, if any; and

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- 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.
- 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

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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 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section 724.190 Applicability

- a) Types of units.
 - 1) Except as provided in subsection (b) of this Section, the regulations in this Subpart F apply to owners and operators of facilities that treat, store or dispose of hazardous waste. The owner or operator must satisfy the requirements identified in subsection (a)(2) of this Section for all wastes (or constituents thereof) contained in solid waste management units at the facility regardless of the time at which waste was placed in such units.
 - 2) All solid waste management units must comply with the requirements in Section 724.201. A surface impoundment, waste pile, land treatment unit or landfill that receives hazardous waste after July 26, 1982 (referred to in this Subpart F as a "regulated unit") must comply with ~~the requirements of~~ Sections 724.191 through 724.200, in lieu of Section 724.201, for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The financial responsibility requirements of Section

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724.201 apply to regulated units.

- b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this Subpart F if the following is true:
- 1) The owner or operator is exempted [pursuant to ~~under~~](#) Section 724.101; or
 - 2) The owner or operator operates a unit that the Agency finds:
 - A) Is an engineered structure.
 - B) Does not receive or contain liquid waste or waste containing free liquids.
 - C) Is designed and operated to exclude liquid, precipitation, and other runoff and runoff.
 - D) Has both inner and outer layers of containment enclosing the waste.
 - E) Has a leak detection system built into each containment layer.
 - F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods.
 - G) To a reasonable degree of certainty, will not allow hazardous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period; or
 - 3) The Agency finds, pursuant to Section 724.380(d), that the treatment zone of a land treatment unit that qualifies as a regulated unit does not contain levels of hazardous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of Section 724.378 has not shown a statistically significant increase in hazardous constituents below the treatment zone during the operating life of the unit. An exemption [pursuant to ~~under~~](#) this subsection (b) can only relieve an owner or operator of responsibility to meet the requirements of this Subpart F during the post-closure care period; or

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- 4) The Agency finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period specified ~~pursuant to~~ Section 724.217. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made ~~pursuant to~~ this subsection (b) on assumptions that maximize the rate of liquid migration; or
 - 5) The owner or operator designs and operates a pile in compliance with Section 724.350(c).
- c) The regulations under this Subpart F apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the following is true of the applicability of the regulations in this Subpart F:
- 1) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure;
 - 2) Apply during the post-closure care period ~~pursuant to~~ Section 724.217 if the owner or operator is conducting a detection monitoring program ~~pursuant to~~ Section 724.198; or
 - 3) Apply during the compliance period ~~pursuant to~~ Section 724.196 if the owner or operator is conducting a compliance monitoring program ~~pursuant to~~ Section 724.199 or a corrective action program ~~pursuant to~~ Section 724.200.
- d) This Subpart F applies to miscellaneous units if necessary to comply with Sections 724.701 through 724.703.
- e) The regulations of this Subpart F apply to all owners and operators subject to ~~the requirements of~~ 35 Ill. Adm. Code 703.161, when the Agency issues a post-closure care permit or other enforceable document that contains alternative requirements for the facility, as provided in 35 Ill. Adm. Code 703.161. When alternative requirements apply to a facility, a reference in this Subpart F to "in the permit" must mean "in the enforceable document."

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- f) A permit or enforceable document can contain alternative requirements for groundwater monitoring and corrective action for releases to groundwater applicable to a regulated unit that replace all or part of the requirements of 35 Ill. Adm. Code 724.191 through 724.200, as provided [pursuant to ~~under~~](#) 35 Ill. Adm. Code 703.161, where the Board or Agency determines 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 and corrective action requirements of 35 Ill. Adm. Code 724.191 through 724.200 because alternative requirements will [adequately](#) protect human health and the environment.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.191 Required Programs

- a) Owners and operators subject to this Subpart F must conduct a monitoring and response program as follows:
- 1) Whenever hazardous constituents [pursuant to ~~under~~](#) Section 724.193 from a regulated unit are detected at a compliance point [pursuant to ~~under~~](#) Section 724.195, the owner or operator must institute a compliance monitoring program [pursuant to ~~under~~](#) Section 724.199. "Detected" is defined as statistically significant evidence of contamination as described in Section 724.198(f).
 - 2) Whenever the groundwater protection standard [pursuant to ~~under~~](#) Section 724.192 is exceeded, the owner or operator must institute a corrective action program [pursuant to ~~under~~](#) Section 724.200. "Exceeded" is defined as statistically significant evidence of increased contamination, as described in Section 724.199(d).
 - 3) Whenever hazardous constituents [pursuant to ~~under~~](#) Section 724.193 from a regulated unit exceed concentration limits [pursuant to ~~under~~](#) Section 724.194 in groundwater between the compliance point [pursuant to ~~under~~](#)

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Section 724.195 and the downgradient facility property boundary, the owner or operator must institute a corrective action program [pursuant to](#) ~~under~~ Section 724.200; or

- 4) In all other cases, the owner or operator must institute a detection monitoring program [pursuant to](#) ~~under~~ Section 724.198.
- b) The Agency must specify in the facility permit the specific elements of the monitoring and response program. The Agency may include one or more of the programs identified in subsection (a) of this Section in the facility permit as may be necessary to [adequately](#) protect human health and the environment and must specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the Agency must consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

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 water that has not been affected by leakage from a regulated unit. A determination of background 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;

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- 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.

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- 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~~be protective of~~ 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.

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- 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

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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~~~~be protective of~~ 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~~~~be protective of~~ 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~~~~are protective of~~ human health and the environment. Any practical quantification limit (pq1) approved by the Agency ~~pursuant to~~~~under~~ 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 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.200 Corrective Action Program

An owner or operator required to establish a corrective action program ~~pursuant to~~~~under~~ this Subpart F must, at a minimum, discharge the following responsibilities:

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- a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the groundwater protection standard [pursuant to](#) ~~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 [pursuant to](#) ~~under~~ Section 724.193;
 - 2) Concentration limits [pursuant to](#) ~~under~~ Section 724.194 for each of those hazardous constituents;
 - 3) The compliance point [pursuant to](#) ~~under~~ Section 724.195; and
 - 4) The compliance period [pursuant to](#) ~~under~~ 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](#) ~~under~~ Section 724.199 and must be as effective as that program in determining compliance with the groundwater protection standard [pursuant to](#) ~~under~~ Section 724.192 and in determining the success of a corrective action program [pursuant to](#) ~~under~~ 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](#) ~~under~~ Section 724.193 that exceed concentration limits [pursuant to](#) ~~under~~ Section 724.194 in groundwater, as follows:

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- 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.

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- 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 semi-annually.
- h) If the owner or operator determines that the corrective action 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 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.201 Corrective Action for Solid Waste Management Units

- a) The owner or operator of a facility seeking a permit for the treatment, storage, or disposal of hazardous waste must institute corrective action as necessary to adequately protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the facility, regardless of the time at which waste was placed in such unit.
- b) Corrective action will be specified in the permit in accordance with this Section and Subpart S of this Part. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.
- c) The owner or operator must implement corrective action measures beyond the facility property boundary, where necessary to adequately protect human health and the environment, unless the owner or operator demonstrates to the Agency that, despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. 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. Assurances of financial responsibility for such corrective action must be provided.
- d) ~~This~~ ~~The requirements of this~~ Section ~~does~~ not apply to remediation waste management sites unless they are part of a facility subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.

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(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section 724.210 Applicability

Except as Section 724.101 provides otherwise, the following are required:

- a) Section 724.211 through 724.215 (which concern closure) apply to the owners and operators of all hazardous waste management facilities;
- b) Sections 724.216 through 724.220 (which concern post-closure care) apply to the owners and operators of the following:
 - 1) All hazardous waste disposal facilities;
 - 2) Waste piles and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that Sections 724.216 through 724.220 are made applicable to such facilities in Sections 724.328 or 724.358;
 - 3) Tank systems that are required [pursuant to](#) ~~under~~ Section 724.297 to meet the requirements for landfills; or
 - 4) Containment buildings that are required [pursuant to](#) ~~under~~ Section 724.1102 to meet the requirements for landfills; and
- c) A permit or enforceable document can contain alternative requirements that replace all or part of the closure and post-closure care requirements of this Subpart G (and the unit-specific standards referenced in Section 724.211(c) applying to a regulated unit) with alternative requirements set out in a permit or other enforceable document, as provided [pursuant to](#) ~~under~~ 35 Ill. Adm. Code 703.161, where the Board or Agency determines 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 closure requirements of this Subpart G (and

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those referenced herein) because the alternative requirements will adequately protect human health and the environment and will satisfy the closure performance standard of Section 724.211(a) and (b).

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.211 Closure Performance Standard

The owner or operator must close the facility in a manner that does the following:

- a) The closure minimizes~~Minimizes~~ the need for further maintenance;
- b) The closure controls~~Controls~~, minimizes, or eliminates, to the extent necessary to adequately protect to human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous decomposition products to the ground or surface waters or to the atmosphere; and
- c) The closure complies~~Complies~~ with the closure requirements of this Part including, but not limited to, ~~the requirements of~~ Sections 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451 and 724.701 through 724.703, and 724.1102.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.212 Closure Plan; Amendment of Plan

- a) Written plan required.
 - 1) The owner or operator of a hazardous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous waste at partial or final closure are required by Sections 724.328(c)(1)(A) and 724.358(c)(1)(A) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with 35 Ill. Adm. Code 703.183, and approved by the Agency as part of the permit issuance proceeding pursuant to~~under~~ 35 Ill. Adm. Code 705. In accordance with 35 Ill. Adm. Code 703.241, the approved closure plan will become a condition of any RCRA permit.

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- 2) The Agency's approval of the plan must ensure that the approved closure plan is consistent with Sections 724.211 through 724.215 and the applicable requirements of Sections 724.190 et seq., 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451, 724.701, and 724.1102. Until final closure is completed and certified in accordance with Section 724.215, a copy of the approved plan and approved revisions must be furnished to the Agency upon request, including requests by mail.
- b) Content of plan. The plan must identify steps necessary to perform partial or final closure of the facility at any point during its active life. The closure plan must include, at least the following:
- 1) A description of how each hazardous waste management unit at the facility will be closed in accordance with Section 724.211;
 - 2) A description of how final closure of the facility will be conducted in accordance with Section 724.211. The description must identify the maximum extent of the operations 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 closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all hazardous wastes, and identification of 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 required to satisfy the closure performance standard;
 - 5) A detailed description of other activities necessary during the closure 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 runoff and runoff control;

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- 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 and dispose of all hazardous waste inventory and of the time required to place a final cover must be included.);
 - 7) For facilities that use trust funds to establish financial assurance [pursuant to](#) ~~under~~ Section 724.243 or 724.245 and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure; and
 - 8) For a facility where alternative requirements are established at a regulated unit [pursuant to](#) ~~under~~ Section 724.190(f), 724.210(c), or 724.240(d), as provided [pursuant to](#) ~~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 the plan. The owner or operator must submit a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in 35 Ill. Adm. Code 702, 703, and 705. The written notification or request must include a copy of the amended closure plan for review or approval by the Agency.
- 1) The owner or operator may submit a written notification or request to the Agency for a permit modification to amend the closure plan at any time prior to notification of partial or final closure of the facility.
 - 2) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved closure plan whenever any of the following occurs:
 - A) Changes in operating plans or facility design affect the closure plan;
 - B) There is a change in the expected year of closure, if applicable;

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- C) In conducting partial or final closure activities, unexpected events require modification of the approved closure plan; or
 - D) The owner or operator requests the establishment of alternative requirements, as provided [pursuant to](#)~~under~~ 35 Ill. Adm. Code 703.161, to a regulated unit [pursuant to](#)~~under~~ Section 724.190(f), 724.210(c), or 724.240(d).
- 3) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in the 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 request a permit modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan [pursuant to Section](#)~~under Sections~~ 724.328(c)(1)(A) or 724.358(c)(1)(A), must submit an amended closure plan to the Agency no later than 60 days after the date the owner or operator or Agency determines that the hazardous waste management unit must be closed as a landfill, subject to ~~the requirements of~~ Section 724.410, or no later than 30 days after that date if the determination is made during partial or final closure. The Agency must approve, disapprove or modify this amended plan in accordance with the procedures in 35 Ill. Adm. Code 702, 703, and 705. In accordance with 35 Ill. Adm. Code 702.160 and 703.241, the approved closure plan will become a condition of any RCRA permit issued.
- 4) The Agency may request modifications to the plan under the conditions described in Section 724.212(c)(2). The owner or operator must submit the modified plan within 60 days after the Agency's request, or within 30 days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the Agency must be approved in accordance with the procedures in 35 Ill. Adm. Code 702, 703, and 705.
- d) Notification of partial closure and final closure.
- 1) The owner or operator must notify the Agency in writing at least 60 days prior to the date on which the owner or operator expects to begin closure

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of a surface impoundment, waste pile, land treatment, or landfill unit or final closure of a facility with such a unit. The owner or operator 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 treatment or storage tanks, container storage, or incinerator units to be closed. The owner or operator 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, whichever is earlier.

- 2) The date when the owner or operator "expects to begin closure" must be either of the following:
 - A) No later than 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~~ have taken and will continue to take all steps to adequately prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Agency must approve an extension to this one-year limit; or
 - B) For units meeting the requirements of Section 724.213(d), no later than 30 days after the date on which the hazardous waste management unit receives the final known 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 adequately prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Agency

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must approve an extension to this one-year limit.

- 3) If the facility's permit is terminated, or if the facility is otherwise ordered by judicial decree or Board order to cease receiving hazardous wastes or to close, then ~~the requirements of~~ this subsection (d) ~~does~~ not apply. However, the owner or operator must close the facility in accordance with the deadlines established in Section 724.213.
- e) Removal of wastes and decontamination or dismantling of equipment. Nothing in this Section must preclude 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 31 Ill. Reg. 893, effective December 20, 2006)

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;

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- 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

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- 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

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operating requirements of the unit or facility pursuant to~~under~~ 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~~under~~ 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~~under~~ 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:

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- 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](#) ~~under~~ 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](#) ~~under~~ 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.

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- 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.~~do the following:~~
 - 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.
 - ~~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~~may 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) Semi-annual report. During the period of corrective action, the owner or operator must provide semi-annual reports to the Agency that do the

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following:

- A) Describe the progress of the corrective action program;
 - B) Compile all groundwater monitoring data; and
 - C) 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.

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- 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](#) ~~under~~ 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.

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- 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 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.217 Post-Closure Care and Use of Property

- a) Post-Closure care period.
 - 1) Post-closure care for each hazardous waste management unit subject to the requirements of Sections 724.217 through 724.220 must begin after completion of closure of the unit and continue for 30 years after that date and must consist of at least the following:
 - A) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, N, and X of this Part; and
 - B) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, N, and X of this Part.
 - 2) Any time preceding partial closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure care period for a particular unit, the Board may, in accordance with the permit modification procedures of 35 Ill. Adm. Code 702, 703, and 705, do either of the following:
 - A) Shorten the post-closure care period applicable to the hazardous waste management unit or facility if all disposal units have been closed and the Board has found by an adjusted standard issue pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104 that the reduced period is sufficient to [adequately](#) protect human health and the environment (e.g., leachate or groundwater monitoring results, characteristics of the waste, application of advanced technology or alternative disposal, treatment or re-use techniques indicate that the hazardous waste management unit or facility is secure); or
 - B) Extend the post-closure care period applicable to the hazardous

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waste management unit or facility if the Board has found by an adjusted standard issue pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104 that the extended period is necessary to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels that may be harmful to human health and the environment).

- b) The Agency must require continuation at partial or final closure of any of the security requirements of Section 724.114 during part or all of the post-closure period when either of the following is true:
 - 1) Hazardous wastes may remain exposed after completion of partial or final closure; or
 - 2) Access by the public or domestic livestock may pose a hazard to human health.
- c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liners, or any other components of the containment system or the function of the facility's monitoring systems, unless the Agency finds, by way of a permit modification, that the disturbance is necessary for either of the following reasons:
 - 1) It is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or
 - 2) It is necessary to reduce a threat to human health or the environment.
- d) All the post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in Section 724.218.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.219 Post-Closure Notices

- a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator of a disposal facility must submit to the Agency, to the County Recorder and to any local zoning authority or authority with jurisdiction over local land use, a record of the type, location, and quantity of

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hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous waste to the best of the owner or operator's knowledge and in accordance with any records the owner or operator has kept.

- b) Within 60 days after certification of closure of the first hazardous waste disposal unit and within 60 days after certification of closure of the last hazardous waste disposal unit, the owner or operator must do the following:
 - 1) Record a notation on the deed to the facility property —or on some other instrument that is normally examined during title search —that will in perpetuity notify any potential purchaser of the property as follows:
 - A) That the land has been used to manage hazardous wastes; and
 - B) That its use is restricted pursuant to~~under~~ this Subpart G; and
 - C) That the survey plat and record of the type, location and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by subsection (a) of this Section and Section 724.216 have been filed with the Agency, the County Recorder and any local zoning authority or authority with jurisdiction over local land use; and
 - 2) Submit a certification to the Agency, signed by the owner or operator, that the owner or operator has recorded the notation specified in subsection (b)(1) of this Section, including a copy of the document in which the notation has been placed, to the Agency.
- c) If the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, or contaminated soils, such person must request a modification to the post-closure plan in accordance with the applicable requirements in 35 Ill. Adm. Code 703 and 705. The owner and operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of Section 724.217(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 703 and 720 through 728, and 738~~726~~. If the owner or operator is granted to permit

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modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the Agency approve either of the following:

- 1) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or
- 2) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

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](#)~~under~~ Section 724.297 to meet the requirements for landfills; or
 - 4) Containment buildings that are required [pursuant to](#)~~under~~ 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

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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~~ under Section 724.190(f) or 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 31 Ill. Reg. 893, effective December 20, 2006)

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.

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- 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:

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

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:

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

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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,

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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.

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BOARD NOTE: The U.S. Department of 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

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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

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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 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.

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- 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.

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- 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

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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.

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- 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

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- 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

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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;

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- 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:

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- 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

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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; 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) 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.

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- 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

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- 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

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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 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

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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 31 Ill. Reg. 893, effective December 20, 2006)

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 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

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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 ~~under~~ 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.

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- 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~~ under 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~~ under 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

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(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.

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- 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~~ under 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~~ under 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~~ under 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

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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 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

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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.

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- 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.

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- 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 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.

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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

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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.

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- 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 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

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 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.

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- 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

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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 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART J: TANK SYSTEMS

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 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
 - 5) For tank systems that store or treat materials that become hazardous wastes subsequent to January 12, 1987, within 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 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

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- 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

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through [728725](#). 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

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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;
 - 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;

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- 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,

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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 ground water 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

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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.

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- 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:

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- 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

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(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 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

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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 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART K: SURFACE IMPOUNDMENTS

Section 724.331 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

- a) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the Agency pursuant to the standards set out in this subsection (a), and in accord with all other applicable requirements of this Part. The factors to be considered are the following:
 - 1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
 - 2) The attenuative properties of underlying and surrounding soils or other materials;
 - 3) The mobilizing properties of other materials co-disposed with these wastes; and

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- 4) The effectiveness of additional treatment, design, or monitoring techniques.
- b) The Agency may determine that additional design, operating and monitoring requirements are necessary for surface impoundments managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to [adequately](#) protect human health and the environment.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART L: WASTE PILES

Section 724.359 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

- a) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in waste piles that are not enclosed (as defined in Section 724.350(c)) unless the owner or operator operates the waste pile in accordance with a management plan for these wastes that is approved by the Agency pursuant to the standards set out in this subsection (a), and in accord with all other applicable requirements of this Part. The factors to be considered are the following:
 - 1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
 - 2) The attenuative properties of underlying and surrounding soils or other materials;
 - 3) The mobilizing properties of other materials co-disposed with these wastes; and
 - 4) The effectiveness of additional treatment, design, or monitoring techniques.
- b) The Agency may determine that additional design, operating and monitoring requirements are necessary for piles managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of

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these wastes to groundwater , surface water, or air so as to [adequately](#) protect human health and the environment.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART M: LAND TREATMENT

Section 724.372 Treatment Demonstration

- a) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that the hazardous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.
- b) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required [pursuant to](#)~~under~~ subsection (a) of this Section, it must obtain a treatment or disposal permit [pursuant to](#)~~under~~ 35 Ill. Adm. Code 703.230. The Agency must specify in this permit the testing, analytical, design and operating requirements (including the duration of the tests and analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure, and clean-up activities) necessary to meet the requirements in subsection (c) of this Section.
- c) Any field test or laboratory analysis conducted in order to make a demonstration [pursuant to](#)~~under~~ subsection (a) of this Section must meet the following requirements:
 - 1) It must accurately simulate the characteristics and operating conditions for the proposed land treatment unit including the following:
 - A) The characteristics of the waste (including the presence of constituents of Appendix H to 35 Ill. Adm. Code 721);
 - B) The climate in the area;
 - C) The topography of the surrounding area;
 - D) The characteristics of the soil in the treatment zone (including

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depth); and

- E) The operating practices to be used at the unit;
- 2) It must be likely to show that hazardous constituents in the waste to be tested will be completely degraded, transformed or immobilized in the treatment zone of the proposed land treatment unit; and
 - 3) It must be conducted in a manner that adequately protects human health and the environment considering the following:
 - A) The characteristics of the waste to be tested;
 - B) The operating and monitoring measures taken during the course of the test;
 - C) The duration of the test;
 - D) The volume of waste used in the test;
 - E) In the case of field tests, the potential for migration of hazardous constituents to groundwater or surface water.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.383 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

- a) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in a land treatment unit unless the owner or operator operates the facility in accordance with a management plan for these wastes that is approved by the Agency pursuant to the standards set out in this subsection (a), and in accord with all other applicable requirements of this Part. The factors to be considered are the following:
 - 1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
 - 2) The attenuative properties of underlying and surrounding soils or other

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materials;

- 3) The mobilizing properties of other materials co-disposed with these wastes; and
 - 4) The effectiveness of additional treatment, design, or monitoring techniques.
- b) The Agency may determine that additional design, operating and monitoring requirements are necessary for land treatment facilities managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to groundwater, surface water, or air so as to [adequately](#) protect human health and the environment.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART N: LANDFILLS

Section 724.417 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

- a) Hazardous wastes F020, F021, F022, F023, F026, and F027 must not be placed in a landfill, unless the owner or operator operates the landfill in accord with a management plan for these wastes that is approved by the Agency pursuant to the standards set out in this subsection (a), and in accord with all other applicable requirements of this Part. The factors to be considered are the following:
- 1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through the soil or to volatilize or escape into the atmosphere;
 - 2) The attenuative properties of underlying and surrounding soils or other materials;
 - 3) The mobilizing properties of other materials co-disposed with these wastes; and
 - 4) The effectiveness of additional treatment, design, or monitoring requirements.

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- b) The Agency may determine that additional design, operating, and monitoring requirements are necessary for landfills managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to groundwater, surface water, or air so as to [adequately](#) protect human health and the environment.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART O: INCINERATORS

Section 724.440 Applicability

- a) The regulations in this Subpart O apply to owners and operators of hazardous waste incinerators (as defined in 35 Ill. Adm. Code 720.110), except as Section 724.101 provides otherwise.
- b) Integration of the MACT standards.
- 1) Except as provided by subsections (b)(2) [through \(b\)\(5\), \(b\)\(3\), and \(b\)\(4\)](#) of this Section, the standards of this Part [do not apply to a new hazardous waste incineration unit that became subject to RCRA permit requirements after October 12, 2005; or](#) no longer apply when ~~the an~~ owner or operator [of an existing hazardous waste incineration unit](#) demonstrates compliance with the maximum achievable control technology (MACT) requirements of subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, ~~pursuant to~~ [under](#) 40 CFR 63.1207(j) and [63.1210\(d\)63.1210\(b\)](#), documenting compliance requirements of 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 MACT standards of subpart EEE of 40 CFR 63 do not replace the closure requirements of Section 724.451 or the applicable requirements of Subparts A through H, BB, and CC of this Part.

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- 3) The particulate matter standard of Section 724.443(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206(b)(14) (When and How Must You Comply with the Standards and Operating Requirements?), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 4) The following requirements remain in effect for startup, shutdown, and malfunction events if the owner or operator elects to comply with 35 Ill. Adm. Code 703.320(a)(1)(A) to minimize emissions of toxic compounds from the following events:
 - A) Section 724.445(a), requiring that an incinerator operate in accordance with operating requirements specified in the permit; and
 - B) Section 724.445(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.
- 5) [The particulate matter standard of Section 724.443\(c\) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206\(b\)\(14\) and 63.1219\(e\), 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. Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of subpart EEE of 40 CFR 63. In adopting this subsection (b), USEPA stated as follows (at 64 Fed Reg. 52828, 52975 (Sept. 30, 1999)):

Under this approach . . . , 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-

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specific concerns such as materials handling, risk-based emissions limits and operating requirements, as appropriate, and other hazardous waste management units).

- c) After consideration of the waste analysis included with Part B of the permit application, the Agency, in establishing the permit conditions, must exempt the applicant from all requirements of this Subpart O, except Section 724.441 (Waste Analysis) and Section 724.451 (Closure):
- 1) If the Agency finds that the waste to be burned is one of the following:
 - A) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both;
 - B) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is reactive (Hazard Code R) for characteristics other than those listed in Section 721.123(a)(4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone;
 - C) It is a hazardous waste solely because it possesses the characteristic of ignitability, as determined by the test for characteristics of hazardous wastes pursuant to~~under~~ Subpart C of 35 Ill. Adm. Code 721; or
 - D) It is a hazardous waste solely because it possesses any of the reactivity characteristics described by 35 Ill. Adm. Code 721.123(a)(1), (a)(2), (a)(3), (a)(6), (a)(7), and (a)(8) and will not be burned when other hazardous wastes are present in the combustion zone; and
 - 2) If the waste analysis shows that the waste contains none of the hazardous constituents listed in Subpart H of 35 Ill. Adm. Code 721 that would reasonably be expected to be in the waste.
- d) If the waste to be burned is one that is described by subsection (b)(1)(A), (b)(1)(B), (b)(1)(C), or (b)(1)(D) of this Section and contains insignificant concentrations of the hazardous constituents listed in Subpart H of 35 Ill. Adm. Code 721, then the Agency may, in establishing permit conditions, exempt the

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applicant from all requirements of this Subpart O, except Section 724.441 (Waste Analysis) and Section 724.451 (Closure), after consideration of the waste analysis included with Part B of the permit application, unless the Agency finds that the waste will pose a threat to human health or the environment when burned in an incinerator.

- e) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of 35 Ill. Adm. Code 703.222 through 703.225 (short-term and incinerator permits).

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.451 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 incinerator site.

BOARD NOTE: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with 35 Ill. Adm. Code 721.103(d), that the residue removed from the incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with applicable requirements of [35 Ill. Adm. Code 722 through 728](#)~~this Subchapter~~.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

Section 724.651 Grandfathered Corrective Action Management Units

- a) To implement remedies ~~pursuant to~~under 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 in accordance with the requirements of this Section. "Corrective action management unit" or "CAMU" means an area within a facility that is used only for managing remediation 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.

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- 1) Placement of remediation wastes into or within a CAMU does not constitute land disposal of hazardous wastes.
 - 2) Consolidation or placement of remediation wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.
- b) Designation of a CAMU.
- 1) The Agency may designate a regulated unit (as defined in Section 724.190(a)(2)) as a CAMU, or it may incorporate a regulated unit into a CAMU, if the following is true:
 - A) The regulated unit is closed or closing, meaning it has begun the closure process ~~pursuant to~~ [under](#) 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 requirements of Subparts F, G, and H of this Part and the unit-specific requirements of this Part or the 35 Ill. Adm. Code 725 requirements that applied to that regulated unit will continue to apply to that portion of the CAMU after incorporation into the CAMU.
- c) The Agency must designate a CAMU in accordance with the following factors:
- 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 remediation waste is more protective than managing such wastes at contaminated areas of the facility;

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- 4) Areas within the CAMU where wastes remain in place after its closure 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 standards of this Section.
- e) The Agency must specify in the permit the requirements applicable to a CAMU, including the following:
- 1) The areal configuration of the CAMU.
 - 2) Requirements for remediation waste management, including the specification of applicable design, operation, and closure requirements.
 - 3) Requirements for groundwater monitoring 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; and
 - 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.

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- 4) Closure and post-closure care requirements.
 - A) Closure of a CAMU must do the following:
 - i) Minimize the need for further maintenance; and
 - ii) 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 waste, 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:
 - i) Requirements for excavation, removal, treatment, or containment of wastes;
 - ii) For areas in which wastes will remain after closure of the CAMU, requirements for the capping of such areas; and
 - iii) Requirements for the removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.
 - C) In establishing specific closure requirements for a CAMU [pursuant to](#) ~~under~~ this subsection (e), the Agency must consider the following factors:
 - i) The characteristics of the CAMU;
 - ii) The volume of wastes that remain in place after closure;
 - iii) The potential for releases from the CAMU;
 - iv) The physical and chemical characteristics of the waste;
 - v) The hydrological and other relevant environmental

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conditions at the facility that may influence the migration of any potential or actual releases; and

- vi) The potential for exposure of humans and environmental receptors if releases were to occur from the CAMU.
- D) Post-closure care requirements as necessary to adequately protect human health and the environment, including, 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 Agency must document the rationale for designating the CAMU and must make such documentation available to the public.
- g) 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~~under~~ 35 Ill. Adm. Code 703.270 through 703.273 or according to the permit modification procedures of 35 Ill. Adm. Code 703.283.
- h) 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 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.652 Corrective Action Management Units

- a) To implement remedies pursuant to~~under~~ 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~~under~~ 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.

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- 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

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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~~ [under](#) 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

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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

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- 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](#) ~~under~~ 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 1×10^{-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:

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- 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

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substantially higher than cleanup levels or goals at the site. ~~;~~
~~When~~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

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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 Section 728.145, or by methods or to levels established pursuant to ~~under~~ 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 the 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~~ ~~be protective of~~ 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

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hazardous constituents (PHCs) that are significantly above or below cleanup standards applicable to the site (established either site-specifically, or promulgated pursuant to ~~under~~ 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:

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- 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.
- D) 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.

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- 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) Minimize the need for further maintenance; and
 - ii) 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

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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](#) ~~under~~ 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) 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

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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

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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, ground water 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.

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(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.653 Temporary Units

- a) For temporary tanks and container storage areas used to treat or store hazardous remediation wastes during remedial activities required ~~pursuant to~~ Section 724.201 or RCRA section 3008(h), or at a permitted facility that is not subject to Section 724.201, the Agency may designate a unit at the facility as a temporary unit. A temporary unit must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the temporary unit originated. For temporary units, the Agency may replace the design, operating, or closure standards applicable to these units ~~pursuant to~~ this Part 724 or 35 Ill. Adm. Code 725 with alternative requirements that adequately protect human health and the environment.
- b) Any temporary unit to which alternative requirements are applied in accordance with subsection (a) of this Section must be as follows:
 - 1) Located within the facility boundary; and
 - 2) Used only for treatment or storage of remediation wastes.
- c) In establishing alternative requirements to be applied to a temporary unit, the Agency must consider the following factors:
 - 1) The length of time such unit will be in operation;
 - 2) The type of unit;
 - 3) The volumes of wastes to be managed;
 - 4) The physical and chemical characteristics of the wastes to be managed in the unit;
 - 5) The potential for releases from the unit;
 - 6) The hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential releases; and
 - 7) The potential for exposure of humans and environmental receptors if

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releases were to occur from the unit.

- d) The Agency must specify in the permit the length of time a temporary unit will be allowed to operate, which must be no longer than one year. The Agency must also specify the design, operating, and closure requirements for the unit.
- e) The Agency may extend the operational period of a temporary unit once, for no longer than a period of one year beyond that originally specified in the permit, if the Agency determines the following:
 - 1) That continued operation of the unit will not pose a threat to human health and the environment; and
 - 2) That continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.
- f) Incorporation of a temporary unit or a time extension for a temporary unit into an existing permit must be as follows:
 - 1) Approved in accordance with the procedures for Agency-initiated permit modifications ~~pursuant to~~ [under](#) 35 Ill. Adm. Code 703.270 through 703.273; or
 - 2) Requested by the owner or operator as a Class 2 modification according to the procedures ~~pursuant to~~ [under](#) 35 Ill. Adm. Code 703.283.
- g) The Agency must document the rationale for designating a temporary unit and for granting time extensions for temporary units and must make such documentation available to the public.

BOARD NOTE: USEPA promulgated [40 CFR 264.553](#), from which this [Section was derived](#), ~~provision~~ pursuant to HSWA provisions of RCRA Subtitle C. Since the federal provision became immediately effective in Illinois, and until USEPA authorizes this Illinois provision, an owner or operator must seek TU authorization from USEPA Region [5V](#), as well as authorization from the Agency ~~pursuant to~~ [under](#) this [Section](#) ~~provision~~.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.654 Staging Piles

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- 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 an independent, qualified 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

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- 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 runoff 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](#) ~~under~~ 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

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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 ~~under~~ 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

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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 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 (1) 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.

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- 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 ~~above~~ 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:

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- A) The Agency must approve the modification pursuant to~~under~~ 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~~under~~ 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 pursua nt to~~under~~ 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~~under~~ 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 31 Ill. Reg. 893, effective December 20, 2006)

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 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 an independent, qualified 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

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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 an independent qualified, 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~~be protective of~~ human health and the environment.
- c) Upon completion of all upgrades, repairs, and modifications, the owner or

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operator must submit to the Agency, the as-built drawings for the drip pad, together with a certification by an independent, qualified 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 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART X: MISCELLANEOUS UNITS

Section 724.701 Environmental Performance Standards

A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure [adequate](#) protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as are necessary to [adequately](#) protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions must include those requirements of Subparts I through O and AA through CC of this Part; 35 Ill. Adm. Code 702, 703, and 730; and federal subpart EEE of 40 CFR 63, incorporated by reference in 35 Ill. Adm. Code 720.111(b), that are appropriate for the miscellaneous unit being permitted. [Adequate protection](#)Protection of human health and the environment includes, but is not limited to the following:

- a) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the groundwater or subsurface environment, considering the following:
- 1) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;
 - 2) The hydrologic and geologic characteristics of the unit and the surrounding area;
 - 3) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;

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- 4) The quantity and direction of groundwater flow;
 - 5) The proximity to and withdrawal rates of current and potential groundwater users;
 - 6) The patterns of land use in the region;
 - 7) The potential for deposition or migration of waste constituents into subsurface physical structures and the root zone of food-chain crops and other vegetation;
 - 8) The potential for health risks caused by human exposure to waste constituents; and
 - 9) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.
- b) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, in wetlands, or on the soil surface, considering the following:
- 1) The volume and physical and chemical characteristics of the waste in the unit;
 - 2) The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;
 - 3) The hydrologic characteristics of the unit and surrounding area, including the topography of the land around the unit;
 - 4) The patterns of precipitation in the region;
 - 5) The quantity, quality, and direction of groundwater flow;
 - 6) The proximity of the unit to surface waters;
 - 7) The current and potential uses of the nearby surface waters and any water quality standards in 35 Ill. Adm. Code 302 or 303;
 - 8) The existing quality of surface waters and surface soils, including other

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sources of contamination and their cumulative impact on surface waters and surface soils;

- 9) The patterns of land use in the region;
 - 10) The potential for health risks caused by human exposure to waste constituents; and
 - 11) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.
- c) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering the following:
- 1) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols, and particulates;
 - 2) The effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air;
 - 3) The operating characteristics of the unit;
 - 4) The atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;
 - 5) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;
 - 6) The potential for health risks caused by human exposure to waste constituents; and
 - 7) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by waste constituents.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

Section 724.702 Monitoring, Analysis, Inspection, Response, Reporting, and Corrective Action

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Monitoring, testing, analytical data, inspections, response and reporting procedures and frequencies must ensure compliance with Sections 724.115, 724.133, 724.175, 724.176, 724.177, 724.201, and 724.701, as well as any additional requirements needed to [adequately](#) protect human health and the environment as specified in the permit.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section 724.931 Definitions

As used in this Subpart AA, all terms not defined in this Subpart AA have the meaning given them in the Resource Conservation and Recovery Act and 35 Ill. Adm. Code 720 through [728](#), [and 738726](#).

"Air stripping operation" means a desorption operation employed to transfer one or more volatile components from a liquid mixture into a gas (air) either with or without the application of heat to the liquid. Packed towers, spray towers and bubble-cap, sieve, or valve-type plate towers are among the process configurations used for contacting the air and a liquid.

"Bottoms receiver" means a container or tank used to receive and collect the heavier bottoms fractions of the distillation feed stream that remain in the liquid phase.

"Btu" means British thermal unit.

"Closed-vent system" means a system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device.

"Condenser" means a heat-transfer device that reduces a thermodynamic fluid from its vapor phase to its liquid phase.

"Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. For the purposes of reporting and recordkeeping, "connector" means flanged fittings that are not covered by insulation or other materials that prevent location of the fittings.

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"Continuous recorder" means a data-recording device recording an instantaneous data value at least once every 15 minutes.

"Control device" means an enclosed combustion device, vapor recovery system, or flare. Any device the primary function of which is the recovery or capture of solvents or other organics for use, reuse, or sale (e.g., a primary condenser on a solvent recovery unit) is not a control device.

"Control device shutdown" means the cessation of operation of a control device for any purpose.

"Distillate receiver" means a container or tank used to receive and collect liquid material (condensed) from the overhead condenser of a distillation unit and from which the condensed liquid is pumped to larger storage tanks or other process units.

"Distillation operation" means an operation, either batch or continuous, separating one or more feed streams into two or more exit streams, each exit stream having component concentrations different from those in the feed streams. The separation is achieved by the redistribution of the components between the liquid and vapor phase as they approach equilibrium within the distillation unit.

"Double block and bleed system" means two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

"Equipment" means each valve, pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, flange or other connector, and any control devices or systems required by this Subpart AA.

"First attempt at repair" means to take rapid action for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices.

"Flame zone" means the portion of the combustion chamber in a boiler occupied by the flame envelope.

"Flow indicator" means a device that indicates whether gas flow is present in a vent stream.

"Fractionation operation" means a distillation operation or method used to separate a mixture of several volatile components of different boiling points in

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successive stages, each stage removing from the mixture some proportion of one of the components.

"ft" means foot.

"h" means hour.

"Hazardous waste management unit shutdown" means a work practice or operational procedure that stops operation of a hazardous waste management unit or part of a hazardous waste management unit. An unscheduled work practice or operational procedure that stops operation of a hazardous waste management unit or part of a hazardous waste management unit for less than 24 hours is not a hazardous waste management unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping operation are not hazardous waste management unit shutdowns.

"Hot well" means a container for collecting condensate as in a steam condenser serving a vacuum-jet or steam-jet ejector.

"In gas-vapor service" means that the piece of equipment contains or contacts a hazardous waste stream that is in the gaseous state at operating conditions.

"In heavy liquid service" means that the piece of equipment is not in gas-vapor service or in light liquid service.

"In light liquid service" means that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20°C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20°C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.

"In situ sampling systems" means nonextractive samplers or in-line samplers.

"In vacuum service" means that equipment is operating at an internal pressure that is at least 5 kPa below ambient pressure.

"Kg" means kilogram.

"kPa" means kilopascals.

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"lb" means pound.

"m" means meter.

"Mg" means Megagrams, or metric tonnes.

"MJ" means Megajoules, or ten to the sixth Joules.

"MW" means Megawatts.

"Malfunction" means any sudden failure of a control device or a hazardous waste management unit or failure of a hazardous waste management unit to operate in a normal or usual manner, so that organic emissions are increased.

"Open-ended valve or line" means any valve, except a pressure relief valve, that has one side of the valve seat in contact with hazardous waste and one side open to the atmosphere, either directly or through open piping.

"ppmv" means parts per million by volume.

"ppmw" means parts per million by weight.

"Pressure release" means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device.

"Process heater" means a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all fluids except water that are heated to produce steam.

"Process vent" means any open-ended pipe or stack that is vented to the atmosphere either directly, through a vacuum-producing system, or through a tank (e.g., distillate receiver, condenser, bottoms receiver, surge control tank, separator tank, or hot well) associated with hazardous waste distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations.

"Repaired" means that equipment is adjusted or otherwise altered to eliminate a leak.

"s" means second.

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"Sampling connection system" means an assembly of equipment within a process or waste management unit that is used during periods of representative operation to take samples of the process or waste fluid. Equipment that is used to take non-routine grab samples is not considered a sampling connection system.

"scm" means standard cubic meter.

"scft" means standard cubic foot.

"Sensor" means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

"Separator tank" means a device used for separation of two immiscible liquids.

"Solvent extraction operation" means an operation or method of separation in which a solid or solution is contacted with a liquid solvent (the two being mutually insoluble) to preferentially dissolve and transfer one or more components into the solvent.

"Startup" means the setting in operation of a hazardous waste management unit or control device for any purpose.

"Steam stripping operation" means a distillation operation in which vaporization of the volatile constituents of a liquid mixture takes place by the introduction of steam directly in to the charge.

"Surge control tank" means a large-sized pipe or storage reservoir sufficient to contain the surging liquid discharge of the process tank to which it is connected.

"Thin-film evaporation operation" means a distillation operation that employs a heating surface consisting of a large diameter tube that may be either straight or tapered, horizontal or vertical. Liquid is spread on the tube wall by a rotating assembly of blades that maintain a close clearance from the wall or actually ride on the film of liquid on the wall.

"USDOT" means the United States Department of Transportation.

"Vapor incinerator" means any enclosed combustion device that is used for destroying organic compounds and does not extract energy in the form of steam

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or process heat.

"Vented" means discharged through an opening, typically an open-ended pipe or stack, allowing the passage of a stream of liquids, gases, or fumes into the atmosphere. The passage of liquids, gases, or fumes is caused by mechanical means, such as compressors or vacuum-producing systems, or by process-related means, such as evaporation produced by heating, and not caused by tank loading and unloading (working losses) or by natural means, such as diurnal temperature changes.

"yr" means year.

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section 724.951 Definitions

As used in this Subpart BB, all terms have the meaning given them in Section 724.931, the Resource Conservation and Recovery Act and 35 Ill. Adm. Code 720 through [728, and 738726](#).

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
IMPOUNDMENTS, AND CONTAINERS**Section 724.981 Definitions**

As used in this Subpart CC, all terms will have the meaning given to them in 35 Ill. Adm. Code 725.981, ~~RCRA~~, and 35 Ill. Adm. Code [720 through 728720.110](#).

(Source: Amended at 31 Ill. Reg. 893, effective December 20, 2006)

POLLUTION CONTROL BOARD

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- 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)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
725.101	Amend
725.102	New Section
725.153	Amend
725.190	Amend
725.210	Amend
725.211	Amend
725.213	Amend
725.217	Amend
725.219	Amend
725.240	Amend
725.247	Amend
725.293	Amend
725.451	Amend
725.541	Amend
725.931	Amend
725.951	Amend
725.980	Amend
725.981	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The amendments include amendments to incorporations by reference. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The amendments to the incorporations at 35 Ill. Adm. Code 720.111 include updates to materials incorporated for the purposes of Part 725, including incorporations necessary to implement the amendments to the federal Hazardous Waste Combustor Rule.

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- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7263; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of 11/16/06, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated 4/6/06, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 725 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm.

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Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 725 implement segments of the 8/5/05, 10/12/05, and 10/13/05 federal amendments. The amendments incorporate elements of the Mercury-Containing Device Rule and the amendments to the Hazardous Waste Combustor Rule into the RCRA Subtitle C treatment, storage, and disposal facility regulations applicable to interim status facilities. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's opinion and order of 11/16/06 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 4/6/06 opinion and order.

- 16) Information and questions regarding these adopted amendments shall be directed to:
Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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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

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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

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

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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

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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

Section	
725.270	Applicability
725.271	Condition of Containers
725.272	Compatibility of Waste with Containers
725.273	Management of Containers
725.274	Inspections
725.276	Special Requirements for Ignitable or Reactive Wastes
725.277	Special Requirements for Incompatible Wastes
725.278	Air Emission Standards

SUBPART J: TANK SYSTEMS

Section	
725.290	Applicability

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725.291	Assessment of Existing Tank System Integrity
725.292	Design and Installation of New Tank Systems or Components
725.293	Containment and Detection of Releases
725.294	General Operating Requirements
725.295	Inspections
725.296	Response to Leaks or Spills and Disposition of Tank Systems
725.297	Closure and Post-Closure Care
725.298	Special Requirements for Ignitable or Reactive Wastes
725.299	Special Requirements for Incompatible Wastes
725.300	Waste Analysis and Trial Tests
725.301	Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month
725.302	Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section	
725.320	Applicability
725.321	Design and Operating Requirements
725.322	Action Leakage Rate
725.323	Response Actions
725.324	Containment System
725.325	Waste Analysis and Trial Tests
725.326	Monitoring and Inspections
725.328	Closure and Post-Closure Care
725.329	Special Requirements for Ignitable or Reactive Wastes
725.330	Special Requirements for Incompatible Wastes
725.331	Air Emission Standards

SUBPART L: WASTE PILES

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

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- 725.359 Response Actions
- 725.360 Monitoring and Inspections

SUBPART M: LAND TREATMENT

- Section
- 725.370 Applicability
- 725.372 General Operating Requirements
- 725.373 Waste Analysis
- 725.376 Food Chain Crops
- 725.378 Unsaturated Zone (Zone of Aeration) Monitoring
- 725.379 Recordkeeping
- 725.380 Closure and Post-Closure Care
- 725.381 Special Requirements for Ignitable or Reactive Wastes
- 725.382 Special Requirements for Incompatible Wastes

SUBPART N: LANDFILLS

- Section
- 725.400 Applicability
- 725.401 Design Requirements
- 725.402 Action Leakage Rate
- 725.403 Response Actions
- 725.404 Monitoring and Inspections
- 725.409 Surveying and Recordkeeping
- 725.410 Closure and Post-Closure Care
- 725.412 Special Requirements for Ignitable or Reactive Wastes
- 725.413 Special Requirements for Incompatible Wastes
- 725.414 Special Requirements for Liquid Wastes
- 725.415 Special Requirements for Containers
- 725.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

SUBPART O: INCINERATORS

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

SUBPART P: THERMAL TREATMENT

Section

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

SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT

Section

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

SUBPART R: UNDERGROUND INJECTION

Section

- 725.530 Applicability

SUBPART W: DRIP PADS

Section

- 725.540 Applicability
725.541 Assessment of Existing Drip Pad Integrity
725.542 Design and Installation of New Drip Pads
725.543 Design and Operating Requirements
725.544 Inspections
725.545 Closure

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SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section

725.930	Applicability
725.931	Definitions
725.932	Standards: Process Vents
725.933	Standards: Closed-Vent Systems and Control Devices
725.934	Test Methods and Procedures
725.935	Recordkeeping Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section

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

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
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Section

725.980	Applicability
725.981	Definitions
725.982	Schedule for Implementation of Air Emission Standards
725.983	Standards: General
725.984	Waste Determination Procedures
725.985	Standards: Tanks
725.986	Standards: Surface Impoundments

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725.987	Standards: Containers
725.988	Standards: Closed-Vent Systems and Control Devices
725.989	Inspection and Monitoring Requirements
725.990	Recordkeeping Requirements
725.991	Alternative Tank Emission Control Requirements (Repealed)

SUBPART DD: CONTAINMENT BUILDINGS

Section

725.1100	Applicability
725.1101	Design and Operating Standards
725.1102	Closure and Post-Closure Care

SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

Section

725.1200	Applicability
725.1201	Design and Operating Standards
725.1202	Closure and Post-Closure Care

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

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at

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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.

SUBPART A: GENERAL PROVISIONS

Section 725.101 Purpose, Scope, and Applicability

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure care requirements, until post-closure care responsibilities are fulfilled.
- b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill. Adm. Code 724.652 through 724.654 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste and which have fully complied with the requirements for interim status pursuant to ~~under~~ Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 USC 6925(e)) and 35 Ill. Adm. Code 703, until either a permit is issued pursuant to ~~under~~ Section 3005 of the Resource Conservation and Recovery Act (42 USC 6905) or Section 21(f) of the Environmental Protection Act [415 ILCS 5/21(f)], or until applicable closure and post-closure care responsibilities pursuant to ~~under~~ this Part are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980,

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that have failed to provide timely notification as required by Section 3010(a) of RCRA (42 USC 6910(a)) or that have failed to file Part A of the Permit Application, as required by federal 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after November 19, 1980, except as specifically provided otherwise in this Part or in 35 Ill. Adm. Code 721.

BOARD NOTE: As stated in Section 3005(a) of RCRA (42 USC 6905(a)), after the effective date of regulations [pursuant to ~~under~~](#) that Section (i.e., 40 CFR 270 and 124) the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA (42 USC 6905(e)) provides for the continued operation of an existing facility that meets certain conditions until final administrative disposition of the owner's and operator's permit application is made.

- c) The requirements of this Part do not apply to any of the following:
- 1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued [pursuant to ~~under~~](#) the federal Marine Protection, Research and Sanctuaries Act (33 USC 1401 et seq.);

BOARD NOTE: This Part applies to the treatment or storage of hazardous waste before it is loaded into an ocean vessel for incineration or disposal at sea, as provided in subsection (b) of this Section.

- 2) This subsection (c)(2) corresponds with 40 CFR 265.1(c)(2), marked "reserved" by USEPA. This statement maintains structural consistency with USEPA rules;
- 3) The owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste;

BOARD NOTE: The owner or operator of a facility [pursuant to ~~under~~](#) subsections (c)(1) and (c)(3) is subject to the requirements of 35 Ill. Adm. Code 724 to the extent they are included in a permit by rule granted to such a person [pursuant to ~~under~~](#) 35 Ill. Adm. Code 702 and 703 or are required by Subpart F of 35 Ill. Adm. Code 704.

- 4) This subsection (c)(4) corresponds with 40 CFR 265.1(c)(4), which pertains exclusively to the applicability of the federal regulations in

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authorized states. There is no need for a parallel provision in the Illinois regulations. This statement maintains structural consistency with USEPA rules;

- 5) The owner or operator of a facility permitted, licensed, or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation ~~pursuant to~~ under this Part by 35 Ill. Adm. Code 721.105;
- 6) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4), except to the extent that requirements of this Part are referred to in Subpart C, F, G, or H of 35 Ill. Adm. Code 726 or 35 Ill. Adm. Code 739;
- 7) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134, except to the extent the requirements are included in 35 Ill. Adm. Code 722.134;
- 8) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170;
- 9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- 10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T of 35 Ill. Adm. Code 728) or reactive (D003) waste in order to remove the characteristic before land disposal, the owner or operator must comply with the requirements set forth in Section 725.117(b);
- 11) Immediate response.
 - A) Except as provided in subsection (c)(11)(B) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:
 - i) A discharge of a hazardous waste;

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- ii) An imminent and substantial threat of a discharge of a hazardous waste;
 - iii) A discharge of a material that becomes a hazardous waste when discharged; or
 - iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.
- B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D of this Part.
- C) Any person that is covered by subsection (c)(11)(A) of this Section that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities;
- D) In the case of an explosives or munitions emergency response, if a federal, state, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to [adequately](#) protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;
- 12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;

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- 13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or the addition of waste to the absorbent material in a container, provided that these actions occur at the time that the waste is first placed in the containers and Sections 725.117(b), 725.271, and 725.272 are complied with;
- 14) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation [pursuant to](#)~~under~~ 35 Ill. Adm. Code 733 when handling the following universal wastes:
- A) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - B) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 - C) [Mercury-containing equipment, Thermostats](#), as described in 35 Ill. Adm. Code 733.104;
 - D) Lamps, as described in 35 Ill. Adm. Code 733.105;~~;~~~~and~~
 - E) ~~Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.~~
- [BOARD NOTE: Subsection \(c\)\(14\)\(E\) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act \[415 ILCS 5/3.283, 3.284, and 22.23b\] \(See P.A. 93-964, effective August 20, 2004\).](#)
- d) The following hazardous wastes must not be managed at facilities subject to regulation [pursuant to](#)~~under~~ this Part: hazardous waste numbers F020, F021, F022, F023, F026, or F027, unless the following conditions are fulfilled:
- 1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;
 - 2) The waste is stored in tanks or containers;
 - 3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) and all other applicable requirements of

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Subpart L of this Part;

- 4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 725.452; or
 - 5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in Section 725.483.
- e) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.
- f) 35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to the storage of military munitions classified as solid waste pursuant to ~~under~~ 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and 728, and 738.~~
- g) Other bodies of regulations may apply to a person, facility, or activity, such as 35 Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through 817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or 35 Ill. Adm. Code 1420 through 1422 (potentially infectious medical waste), depending on the provisions of those other regulations.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

Section 725.102 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1031, effective December 20, 2006)

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

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Section 725.153 Copies of Contingency Plan

The facility owner or operator must undertake each of the following actions with regard to copies~~A copy~~ of the contingency plan and all revisions to the plan~~must be disposed as follows:~~

- a) It~~They~~ must maintain a copy~~be maintained~~ at the facility; and
- b) It~~They~~ must submit a copy~~be submitted to each~~ local police department~~departments~~, fire department~~departments~~, hospital~~hospitals~~, and State and local emergency response team~~teams~~ that may be called upon to provide emergency services at the facility.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

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:

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- 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~~ [under](#) 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) By November 19, 1981, the owner or operator must 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;
 - 2) 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 have prepared and submitted a written report in accordance with Section 725.193(d)(5);
 - 4) The owner or operator must continue to make the determinations specified

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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).

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(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section 725.210 Applicability

Except as Section 725.101 provides otherwise, the following requirements apply as indicated:

- a) Sections 725.211 through 725.215 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and
- b) Sections 725.216 through 725.220 (which concern post-closure care) apply to the owners and operators of the following:
 - 1) All hazardous waste disposal facilities;
 - 2) Waste piles and surface impoundments from which the owner or operator intends to remove the wastes at closure to the extent that these Sections are made applicable to such facilities in Section 725.328 or 725.358;
 - 3) Tank systems that are required ~~pursuant to~~ Section 725.297 to meet requirements for landfills; or
 - 4) Containment buildings that are required ~~pursuant to~~ Section 725.1102 to meet the requirement for landfills.
- c) Section 725.221 applies to owners and operators of units that are subject to the requirements of 35 Ill. Adm. Code 703.161 and which are regulated under an enforceable document (as established pursuant to 35 Ill. Adm. Code 703.161).
- d) A permit or enforceable document can contain alternative requirements that replace all or part of the closure and post-closure care requirements of this Subpart G (and the unit-specific standards in Section 725.211(c)) applying to a regulated unit (as defined in 35 Ill. Adm. Code 724.190), as provided in 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

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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 closure requirements of this Subpart G (and those referenced herein) because the alternative requirements will [adequately](#) protect human health and the environment, and will satisfy the closure performance standard of Section 725.211(a) and (b).

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

Section 725.211 Closure Performance Standard

The owner or operator must close the facility in a manner that does the following:

- a) The closure minimizes the need for further maintenance;
- b) The closure controls, minimizes, or eliminates, to the extent necessary to [adequately](#) protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and
- c) The closure complies with the closure requirements of this Part, including, but not limited to, the requirements of Sections 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

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:

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- 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) ~~of this Section~~ 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

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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:

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- 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~~ under 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~~ under 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~~ under 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

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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~~ 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

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~~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

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- C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.
- 6) Semi-annual report. During the period of corrective action, the owner or operator must provide semi-annual reports to the Agency that fulfill the following requirements:
- A) They describe the progress of the corrective action program;
 - B) They compile all groundwater monitoring data; and
 - C) They 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.

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- 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 ~~under~~ subsection (e)(5)(A) of this Section, as provided in that subsection or in subsection (e)(7) of this Section.

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- 9) The owner or operator may file a revised closure plan within 15 days after an adjusted standard is terminated.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

Section 725.217 Post-Closure Care and Use of Property

- a) Post-closure care.
 - 1) Post-closure care for each hazardous waste management unit subject to the requirements of Sections 725.217 through 725.220 must begin after completion of closure of the unit and continue for 30 years after that date. It must consist of at least the following:
 - A) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, and N of this Part; and
 - B) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, and N of this Part.
 - 2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular hazardous waste disposal unit, the Board will, 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 or by an order in some other appropriate type of proceeding (e.g., an enforcement proceeding), do the following:
 - A) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if the Board finds that the reduced period is sufficient to [adequately](#) protect human health and the environment (e.g., leachate or groundwater monitoring results; characteristics of the hazardous waste; application of advanced technology; or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or
 - B) Extend the post-closure care period applicable to the hazardous waste management unit or facility, if the Board finds that the

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extended period is necessary to [adequately](#) protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels that may be harmful to human health and the environment).

- 3) As provided by Section 725.218(i), the Board will utilize site-specific rulemaking to adjust the length of the post-closure care period.
- b) The Agency must require, at partial or final closure, continuation of any of the security requirements of Section 725.214 during part or all of the post-closure period when either of the following occurs:
 - 1) Hazardous wastes may remain exposed after completion of partial or final closure; or
 - 2) Access by the public or domestic livestock may pose a hazard to human health.
- c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liners, or any other components of any containment system or the function of the facility's monitoring systems, unless the Agency determines either of the following with respect to the disturbance:
 - 1) It is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or
 - 2) It is necessary to reduce a threat to human health or the environment.
- d) All post-closure care activities must be performed in accordance with the provisions of the approved post-closure plan, as specified in Section 725.218.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

Section 725.219 Post-Closure Notices

Within 90 days after closure is completed, the owner or operator of a disposal facility must submit to the County Recorder and to the Agency a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat

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filed with the County Recorder must contain a note, prominently displayed, that states the owner's or operator's obligation to restrict disturbance of the site as specified in Section 725.217(c). In addition, the owner or operator must submit to the Agency and to the County Recorder a record of the type, location, and quantity of hazardous waste disposed of within each cell or area of the facility. The owner or operator must identify the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of before these regulations were promulgated, the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records the owner or operator has kept.

- a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the County Recorder, to any local zoning authority, or any authority with jurisdiction over local land use, and to the Agency, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of the owner or operator's knowledge and in accordance with any records the owner or operator has kept.
- b) Within 60 days after certification of closure of the first hazardous waste disposal unit and within 60 days after certification of closure of the last hazardous waste disposal unit, the owner or operator must do the following:
 - 1) Record, in accordance with Illinois law, a notation on the deed to the facility property, or on some other instrument that is normally examined during title search, that will in perpetuity notify any potential purchaser of the property of the following:
 - A) The land has been used to manage hazardous wastes;
 - B) Its use is restricted ~~pursuant to~~ [under](#) Subpart G of ~~this Part-35-III.~~ [Adm. Code 725](#); and
 - C) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by Sections 725.216 and 725.219(a) have been filed with the County Recorder, any local zoning authority, or any authority with jurisdiction over local land use, and with the Agency; and

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- 2) Submit to the Agency a certification signed by the owner or operator that the owner or operator has recorded the notation specified in subsection (b)(1) of this Section, together with a copy of the document in which the notation has been placed.
- c) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues; the liner, if any; and all contaminated structures, equipment, and soils, such person must request a modification to the approved post-closure plan in accordance with the requirements of Section 725.218(g). The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of Section 725.217(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 702, 703, ~~and~~ 720 through 728, and 738726. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the Agency approve either of the following:
 - 1) Removal of the notation on the deed to the facility property or other instrument normally examined during title search, or
 - 2) Addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

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 725.246 apply only to owners and operators of any of the following:
 - 1) Disposal facilities;

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- 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 31 Ill. Reg. 1031, effective December 20, 2006)

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).

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- 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

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financial assurances ~~pursuant to~~ ~~under~~ this subsection, 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~~ ~~under~~ subsections (a)(1) through (a)(6) of this Section; or
 - C) A final court order establishing a ~~judgment~~ ~~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~~ ~~under~~ 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

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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

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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~~ under 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~~ under 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~~ under 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

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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.

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- e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency 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

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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 ~~under~~ 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

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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

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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

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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

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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 31 Ill. Reg. 1031, effective December 20, 2006)

SUBPART J: TANK SYSTEMS

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 tank system or component, prior to its being put into service;
 - 2) For all existing tanks used to store or treat USEPA Hazardous Waste

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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
 - 5) For tank systems that store or treat materials that become hazardous wastes subsequent to January 12, 1987, within 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

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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 [728725](#). 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

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- 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

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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.

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- 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;

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- 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

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- 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

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- 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

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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

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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, an annual leak test, as described in subsection (i)(1) of this Section, or an internal inspection or other tank integrity examination, by an independent, qualified, registered professional engineer, that addresses cracks, leaks, corrosion 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 31 Ill. Reg. 1031, effective December 20, 2006)

SUBPART O: INCINERATORS

Section 725.451 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 incinerator.

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BOARD NOTE: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with Section 721.103(d), that the residue removed from his incinerator 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 through ~~726 and~~ 728.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

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 an independent, qualified 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 an independent qualified, 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,

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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~~ adequately protect ~~the protective of~~ 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 an independent, qualified, 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 31 Ill. Reg. 1031, effective December 20, 2006)

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section 725.931 Definitions

As used in this Subpart AA, all terms not defined in this Subpart AA have the meaning given them in 35 Ill. Adm. Code 724.931, the Resource Conservation and Recovery Act, and 35 Ill. Adm. Code 720 through 728, and 738~~726~~.

"BTU" means British thermal unit.

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"ft" means foot.

"h" means hour.

"kg" means kilogram.

"kPa" means kilopascals.

"lb" means pound.

"m" means meter.

"Mg" means Megagrams, or metric tonnes.

"MJ" means Megajoules, or ten to the sixth Joules.

"MW" means Megawatts.

"ppmv" means parts per million by volume.

"ppmw" meant parts per million by weight.

"s" means second.

"scm" means standard cubic meter.

"scft" meant standard cubic foot.

"yr" means year.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS**Section 725.951 Definitions**

As used in this Subpart BB, all terms have the meaning given them in Section 725.931, the Resource Conservation and Recovery Act and 35 Ill. Adm. Code 720 through [728, and 738726](#).

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(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
IMPOUNDMENTS, AND CONTAINERS

Section 725.980 Applicability

- a) The requirements of this Subpart CC apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers that are subject to Subpart I, J, or K of this Part, except as Section 725.101 and subsection (b) of this Section provide otherwise.
- b) The requirements of this Subpart CC do not apply to the following waste management units at the facility:
 - 1) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste ~~was~~ added to the unit on or after December 6, 1996;
 - 2) A container that has a design capacity less than or equal to 0.1 m³ (3.5 ft³ or 26.4 gal);
 - 3) A tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;
 - 4) A surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;
 - 5) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required pursuant to the Act or Board regulations or ~~pursuant to~~ ~~under~~ the corrective action authorities of RCRA sections 3004(u), 3004(v), or 3008(h); CERCLA authorities; or similar federal or State authorities;
 - 6) A waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations

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~~pursuant to~~ the authority of the Atomic Energy Act of 1954 (42 USC 2011 et seq.) and the Nuclear Waste Policy Act of 1982 (42 USC 10101 et seq.);

- 7) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable federal Clean Air Act regulation codified ~~pursuant to~~ 40 CFR 60 (Standards of Performance for New Stationary Sources), 61 (National Emission Standards for Hazardous Air Pollutants), or 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories). For the purpose of complying with this subsection (b)(7), a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of Section 725.985(i), except as provided in Section 725.983(c)(5); and
 - 8) A tank that has a process vent, as defined in 35 Ill. Adm. Code 725.931.
- c) For the owner and operator of a facility subject to this Subpart CC that has received a final RCRA permit prior to December 6, 1996, the following requirements apply:
- 1) The requirements of Subpart CC of 35 Ill. Adm. Code 724 must be incorporated into the permit when the permit is reissued, renewed, or modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705.
 - 2) Until the date when the permit is reissued, renewed, or modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705, the owner and operator is subject to the requirements of this Subpart CC.
- d) The requirements of this Subpart CC, except for the recordkeeping requirements specified in Section 725.990(i), are stayed for a tank or container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations, when the owner or operator of the unit meets all of the following conditions:
- 1) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or

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multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purposes of this subsection, "organic peroxide" means an organic compound that contains the bivalent -O-O- structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical;

- 2) The owner or operator prepares documentation, in accordance with Section 725.990(i), explaining why an undue safety hazard would be created if air emission controls specified in Sections 725.985 through 725.988 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of subsection (d)(1) of this Section; and
- 3) The owner or operator notifies the Agency in writing that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of subsection (d)(1) of this Section are managed at the facility in tanks or containers meeting the conditions of subsection (d)(2) of this Section. The notification must state the name and address of the facility and be signed and dated by an authorized representative of the facility owner or operator.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

Section 725.981 Definitions

As used in this Subpart CC and in 35 Ill. Adm. Code 724, all terms not defined herein will have the meanings given to them in the Act and 35 Ill. Adm. Code 720 through [728726](#).

"Average volatile organic concentration" or "average VO concentration" means the mass-weighted average volatile organic concentration of a hazardous waste, as determined in accordance with the requirements of Section 725.984.

"Closure device" means a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover so that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port

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cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

"Continuous seal" means a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.

"Cover" means a device that provides a continuous barrier over the hazardous waste managed in a unit to prevent or reduce air emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, and gauge wells) that are necessary for operation, inspection, maintenance, or repair of the unit on which the cover is used. A cover may be a separate piece of equipment that can be detached and removed from the unit or a cover may be formed by structural features permanently integrated into the design of the unit.

"Enclosure" means a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

"External floating roof" means a pontoon-type or double-deck type cover that rests on the surface of a hazardous waste being managed in a tank with no fixed roof.

"Fixed roof" means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

"Floating membrane cover" means a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous waste being managed in a surface impoundment.

"Floating roof" means a cover consisting of a double-deck, pontoon single-deck, or internal floating cover that rests upon and is supported by the material being contained, and is equipped with a continuous seal.

"Hard-piping" means pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.

"In light material service" means that the container is used to manage a material

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for which both of the following conditions apply: the vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20°C (1.2 inches H₂O at 68°F); and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20°C (1.2 inches H₂O at 68°F) is equal to or greater than 20 percent by weight.

"Internal floating roof" means a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

"Liquid-mounted seal" means a foam or liquid-filled primary seal mounted in contact with the hazardous waste between the tank wall and the floating roof, continuously around the circumference of the tank.

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. A failure that is caused in part by poor maintenance or careless operation is not a malfunction.

"Maximum organic vapor pressure" means the sum of the individual organic constituent partial pressures exerted by the material contained in a tank at the maximum vapor pressure-causing conditions (i.e., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this Subpart CC, maximum organic vapor pressure is determined using the procedures specified in Section 725.984(c).

"Metallic shoe seal" means a continuous seal that is constructed of metal sheets that are held vertically against the wall of the tank by springs, weighted levers, or other mechanisms and which is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

"No detectable organic emissions" means no escape of organics to the atmosphere, as determined using the procedure specified in Section 725.984(d).

"Point of waste origination" means as follows:

When the facility owner or operator is the generator of the hazardous waste, the "point of waste origination" means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste, as defined in 35 Ill. Adm. Code 721.

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BOARD NOTE: In this case, this term is being used in a manner similar to the use of the term "point of generation" in air standards established for waste management operations under authority of the federal Clean Air Act in 40 CFR 60 (Standards of Performance for New Stationary Sources), 61 (National Emission Standards for Hazardous Air Pollutants), and 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories).

When the facility owner and operator are not the generator of the hazardous waste, "point of waste origination" means the point where the owner or operator accepts delivery or takes possession of the hazardous waste.

"Point of waste treatment" means the point where a hazardous waste to be treated in accordance with Section 725.983(c)(2) exits the treatment process. Any waste determination must be made before the waste is conveyed, handled, or otherwise managed in a manner that allows the waste to volatilize to the atmosphere.

"Safety device" means a closure device, such as a pressure relief valve, frangible disc, fusible plug, or any other type of device that functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of this Subpart CC, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials.

"Single-seal system" means a floating roof having one continuous seal. This seal may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

"Vapor-mounted seal" means a continuous seal that is mounted so that there is a

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vapor space between the hazardous waste in the unit and the bottom of the seal.

"Volatile organic concentration" or "VO concentration" means the fraction by weight of organic compounds contained in a hazardous waste expressed in terms of parts per million (ppmw), as determined by direct measurement or by knowledge of the waste, in accordance with the requirements of Section 725.984. For the purpose of determining the VO concentration of a hazardous waste, organic compounds with a Henry's law constant value of at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25° C (77° F) must be included. Appendix F of this Part presents a list of compounds known to have a Henry's law constant value less than the cutoff level.

"Waste determination" means performing all applicable procedures in accordance with the requirements of Section 725.984 to determine whether a hazardous waste meets standards specified in this Subpart CC. Examples of a waste determination include performing the procedures in accordance with the requirements of Section 725.984 to determine the average VO concentration of a hazardous waste at the point of waste origination, determining the average VO concentration of a hazardous waste at the point of waste treatment and comparing the results to the exit concentration limit specified for the process used to treat the hazardous waste, the organic reduction efficiency and the organic biodegradation efficiency for a biological process used to treat a hazardous waste and comparing the results to the applicable standards, or determining the maximum volatile organic vapor pressure for a hazardous waste in a tank and comparing the results to the applicable standards.

"Waste stabilization process" means any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095B (Paint Filter Liquids Test) 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). A waste stabilization process includes mixing the hazardous waste with binders or other materials and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "waste fixation" or "waste solidification." This does not include the addition of absorbent materials to the surface of a waste to absorb free liquid without mixing, agitation, or subsequent curing.

(Source: Amended at 31 Ill. Reg. 1031, effective December 20, 2006)

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- 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)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
726.102	New Section
726.170	Amend
726.200	Amend
726.202	Amend
726.208	Amend
726.211	Amend
726.300	Amend
726.303	Amend
726.305	Amend
726.306	Amend
726.345	Amend
726.355	Amend
726.460	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The amendments include amendments to incorporations by reference. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The amendments to the incorporations at 35 Ill. Adm. Code 720.111 include updates to materials incorporated for the purposes of Part 726, including incorporations necessary to implement the amendments to the federal Hazardous Waste Combustor Rule.
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.

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- 9) Notice of proposal published in the Illinois Register: 30 Ill. Reg. 7329; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated 4/6/06, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.
- Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of this rulemaking: The amendments to Part 726 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 727, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 rulemaking in this *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code

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702. A comprehensive description is contained in the Board's opinion and order of 4/6/06, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 726 implement segments of the 10/12/05 and 10/13/05 federal amendments. The amendments incorporate elements of the amendments to the Hazardous Waste Combustor Rule into the RCRA Subtitle C treatment, storage, and disposal facility regulations. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:
Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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

PART 726

STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTE AND
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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.

SUBPART A: GENERAL

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Section 726.102 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1096, effective December 20, 2006)

**SUBPART F: RECYCLABLE MATERIALS UTILIZED FOR
PRECIOUS METAL RECOVERY****Section 726.170 Applicability and Requirements**

- a) The regulations of this Subpart F apply to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these metals.
- b) A person that generates, transports, or stores recyclable materials that are regulated under this Subpart F is subject to the following requirements:
 - 1) Notification requirements under Section 3010 of the Resource Conservation and Recovery Act;
 - 2) Subpart B of 35 Ill. Adm. Code 722 (for a generator), 35 Ill. Adm. Code 723.120 and 723.121 (for a transporter), and 35 Ill. Adm. Code 725.171 and 725.172 (for a person that stores); and
 - 3) For precious metals exported to or imported from designated OECD member countries for recovery, Subpart H of 35 Ill. Adm. Code 722 and 725.112(a)(2). For precious metals exported to or imported from non-OECD countries for recovery, Subparts E and F of 35 Ill. Adm. Code 722.
- c) A person that stores recycled materials that are regulated under this Subpart F must keep the following records to document that it is not accumulating these materials speculatively (as defined in 35 Ill. Adm. Code 721.101(c));
 - 1) Records showing the volume of these materials stored at the beginning of

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the calendar year;

- 2) The amount of these materials generated or received during the calendar year; and
- 3) The amount of materials remaining at the end of the calendar year.
- d) Recyclable materials that are regulated under this Subpart F that are accumulated speculatively (as defined in 35 Ill. Adm. Code 721.101(c)) are subject to all applicable provisions of 35 Ill. Adm. Code 702, 703, and 722 through ~~728725~~.

(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

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 subsection~~ (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 affected source 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

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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(b)~~ 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 726.312; 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

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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~~ 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~~ under 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~~ under 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;

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- 3) Hazardous wastes that are exempt from regulation ~~pursuant to under~~ 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 under~~ 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 under~~ 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 under~~ 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;

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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

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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

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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

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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.

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- 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.

"DRE" means destruction or removal efficiency.

"cu m" or "m³" 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.

"K" means Kelvin.

"kVA" means kilovolt amperes.

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"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.

"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.

"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).

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"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 31 Ill. Reg. 1096, effective December 20, 2006)

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~~ under 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;

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- 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 (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

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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

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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.

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- 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 ~~under~~ 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,

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- 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~~under~~ 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~~under~~ 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~~under~~ 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~~under~~ Sections

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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 726.211(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 ~~under~~ 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.

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- 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~~ ~~under~~ 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~~ ~~under~~ Section 726.206(c) and the Tier III metals controls ~~pursuant to~~ ~~under~~ 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;

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- 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~~ Sections 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

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- 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~~ ~~under Sections~~ 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;

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- 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

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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.
- B) Rolling average limits for carcinogenic metals and lead. Feed rate limits for the carcinogenic metals (as defined in Section 726.200(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) Terms are as defined in Section 726.200(i); and
 - 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.

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- 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; ~~or~~
 - 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

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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 ~~under~~ 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:

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- 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, 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.

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- 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 keep in the operating record of the facility all information and data required by this Section 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 31 Ill. Reg. 1096, effective December 20, 2006)

Section 726.208 Small Quantity On-Site Burner Exemption

- a) Exempt quantities. An owner or operator of a facility that burns hazardous waste in an on-site BIF is exempt from the requirements of this Subpart H provided that the following conditions are fulfilled:
 - 1) The quantity of hazardous waste burned in a device for a calendar month does not exceed the limits provided in ~~the~~ Table A of this Part based on the TESH, as defined in Sections 726.200(i) and 726.206(b)(3).
 - 2) The maximum hazardous waste firing rate does not exceed at any time one percent of the total fuel requirements for the device (hazardous waste plus other fuel) on a total heat input or mass input basis, whichever results in the lower mass feed rate of hazardous waste;
 - 3) The hazardous waste has a minimum heating value of 5,000 Btu/lb, as generated; and
 - 4) The hazardous waste fuel does not contain (and is not derived from) USEPA hazardous waste numbers F020, F021, F022, F023, F026, or F027.
- b) Mixing with ~~non-hazardous~~ nonhazardous fuels. If hazardous waste fuel is mixed with a ~~non-hazardous~~ nonhazardous fuel, the quantity of hazardous waste before such mixing is used to comply with subsection (a) of this Section.

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- c) Multiple stacks. If an owner or operator burns hazardous waste in more than one on-site BIF exempt ~~pursuant to~~ this Section, the quantity limits provided by subsection (a)(1) of this Section, are implemented according to the following equation:

$$\sum_{i=1}^n \frac{C_i}{L_i} = 1.0$$

Where:

- $\sum_{i=1}^n C_i/L_i$ = the sum of the values of X for each stack i, from i = 1 to n.
 n = ~~means~~ the number of stacks;
 C_i = Actual Quantity Burned means the waste quantity burned per month in device "i."
 L_i = Allowable Quantity Burned means the maximum allowable exempt quantity for stack "i" from Table A.

BOARD NOTE: Hazardous wastes that are subject to the special requirements for small quantity generators ~~pursuant to~~ 35 Ill. Adm. Code 721.105 may be burned in an off-site device ~~pursuant to~~ the exemption provided by Section 726.208, but must be included in the quantity determination for the exemption.

- d) Notification requirements. The owner or operator of facilities qualifying for the small quantity burner exemption ~~pursuant to~~ this Section must provide a one-time signed, written notice to the Agency indicating the following:
- 1) The combustion unit is operating as a small quantity burner of hazardous waste;
 - 2) The owner and operator are in compliance with the requirements of this Section; and
 - 3) The maximum quantity of hazardous waste that the facility is allowed to burn per month, as provided by Section 726.208(a)(1).
- e) Recordkeeping requirements. The owner or operator must maintain at the facility for at least three years sufficient records documenting compliance with the

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hazardous waste quantity, firing rate and heating value limits of this Section. At a minimum, these records must indicate the quantity of hazardous waste and other fuel burned in each unit per calendar month and the heating value of the hazardous waste.

(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

Section 726.211 Standards for Direct Transfer

- a) Applicability. The regulations in this Section apply to owners and operators of BIFs subject to Section 726.202 or 726.203 if hazardous waste is directly transferred from a transport vehicle to a BIF without the use of a storage unit.
- b) Definitions.
 - 1) When used in this Section, terms have the following meanings:

"Direct transfer equipment" means any device (including but not limited to, such devices as piping, fittings, flanges, valves and pumps) that is used to distribute, meter or control the flow of hazardous waste between a container (i.e., transport vehicle) and a BIF.

"Container" means any portable device in which hazardous waste is transported, stored, treated, or otherwise handled, and includes transport vehicles that are containers themselves (e.g., tank trucks, tanker-trailers, and rail tank cars) and containers placed on or in a transport vehicle.
 - 2) This Section references several requirements provided in Subparts I and J of 35 Ill. Adm. Code 724 and Subparts I and J of 35 Ill. Adm. Code 725. For purposes of this Section, the term "tank systems" in those referenced requirements means direct transfer equipment, as defined in subsection (b)(1) of this Section.
- c) General operating requirements.
 - 1) No direct transfer of a pumpable hazardous waste must be conducted from an open-top container to a BIF.

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- 2) Direct transfer equipment used for pumpable hazardous waste must always be closed, except when necessary to add or remove the waste, and must not be opened, handled, or stored in a manner that could cause any rupture or leak.
- 3) The direct transfer of hazardous waste to a BIF must be conducted so that it does not do any of the following:
 - A) Generate extreme heat or pressure, fire, explosion, or violent reaction;
 - B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;
 - C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;
 - D) Damage the structural integrity of the container or direct transfer equipment containing the waste;
 - E) Adversely affect the capability of the BIF to meet the standards provided by Sections 726.204 through 726.207; or
 - F) Threaten human health or the environment.
- 4) Hazardous waste must not be placed in direct transfer equipment, if it could cause the equipment or its secondary containment system to rupture, leak, corrode, or otherwise fail.
- 5) The owner or operator of the facility must use appropriate controls and practices to prevent spills and overflows from the direct transfer equipment or its secondary containment systems. These include the following at a minimum:
 - A) Spill prevention controls (e.g., check valves, dry discount couplings, etc.); and
 - B) Automatic waste feed cutoff to use if a leak or spill occurs from the direct transfer equipment.

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- d) Areas where direct transfer vehicles (containers) are located. Applying the definition of container ~~pursuant to~~ under this Section, owners and operators must comply with the following requirements:
- 1) The containment requirements of 35 Ill. Adm. Code 724.275;
 - 2) The use and management requirements of Subpart I of 35 Ill. Adm. Code 725, except for Sections 725.270 and 725.274, and except that in lieu of the special requirements of 35 Ill. Adm. Code 725.276 for ignitable or reactive waste, the owner or operator may comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjacent property line that can be built upon, as required 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). The owner or operator must obtain and keep on file at the facility a written certification by the local Fire Marshal that the installation meets the subject NFPA Codes; and
 - 3) The closure requirements of 35 Ill. Adm. Code 724.278.
- e) Direct transfer equipment. Direct transfer equipment must meet the following requirements:
- 1) Secondary containment. Owners and operators must comply with the secondary containment requirements of 35 Ill. Adm. Code 725.293, except for Sections 725.293(a), (d), (e), and (i), as follows:
 - A) For all new direct transfer equipment, prior to their being put into service; and
 - B) For existing direct transfer equipment, by August 21, 1993.
 - 2) Requirements prior to meeting secondary containment requirements.
 - A) For existing direct transfer equipment that does not have secondary containment, the owner or operator must determine whether the equipment is leaking or is unfit for use. The owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by a qualified, registered professional engineer in accordance with 35 Ill. Adm. Code 703.126(d) that

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attests to the equipment's integrity by August 21, 1992.

- B) This assessment must determine whether the direct transfer equipment is adequately designed and has sufficient structural strength and compatibility with the wastes to be transferred to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:
- i) Design standards, if available, according to which the direct transfer equipment was constructed;
 - ii) Hazardous characteristics of the wastes that have been or will be handled;
 - iii) Existing corrosion protection measures;
 - iv) Documented age of the equipment, if available, (otherwise, an estimate of the age); and
 - v) Results of a leak test or other integrity examination such that the effects of temperature variations, vapor pockets, cracks, leaks, corrosion and erosion are accounted for.
- C) If, as a result of the assessment specified above, the direct transfer equipment is found to be leaking or unfit for use, the owner or operator must comply with the requirements of 35 Ill. Adm. Code 725.296(a) and (b).
- 3) Inspections and recordkeeping.
- A) The owner or operator must inspect at least once each operating hour when hazardous waste is being transferred from the transport vehicle (container) to the BIF:
- i) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;
 - ii) The above ground portions of the direct transfer equipment to detect corrosion, erosion, or releases of waste (e.g., wet

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spots, dead vegetation, etc.); and

- iii) Data gathered from monitoring equipment and leak-detection equipment, (e.g., pressure and temperature gauges) to ensure that the direct transfer equipment is being operated according to its design.
- B) The owner or operator must inspect cathodic protection systems, if used, to ensure that they are functioning properly according to the schedule provided by 35 Ill. Adm. Code 725.295(b).
- C) Records of inspections made ~~pursuant to~~ under this subsection (e)(3) must be maintained in the operating record at the facility, and available for inspection for at least three years from the date of the inspection.
- 4) Design and installation of new ancillary equipment. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.292.
- 5) Response to leaks or spills. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.296.
- 6) Closure. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.297, except for 35 Ill. Adm. Code 725.297(c)(2) through (c)(4).

(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

SUBPART M: MILITARY MUNITIONS

Section 726.300 Applicability

- a) The regulations in this Subpart M identify when military munitions become a solid waste, and, if these wastes are also hazardous under this Subpart M or 35 Ill. Adm. Code 721, the management standards that apply to these wastes.
- b) Unless otherwise specified in this Subpart M, all applicable requirements in 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and~~ 728, and 738 apply to waste military munitions.

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(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

Section 726.303 Standards Applicable to the Transportation of Solid Waste Military Munitions

- a) Criteria for hazardous waste regulation of waste non-chemical military munitions in transportation.
 - 1) Waste military munitions that are being transported and which exhibit a hazardous waste characteristic or which are listed as hazardous waste ~~pursuant to~~ 35 Ill. Adm. Code 721 are subject to regulation ~~pursuant to~~ 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and 728, and 738~~, unless the munitions meet all the following conditions:
 - A) The waste military munitions are not chemical agents or chemical munitions;
 - B) The waste military munitions are transported in accordance with the Department of Defense shipping controls applicable to the transport of military munitions;
 - C) The waste military munitions are transported from a military-owned or -operated installation to a military-owned or -operated treatment, storage, or disposal facility; and
 - D) The transporter of the waste must provide oral notice to the Agency within 24 hours from the time when either the transporter becomes aware of any loss or theft of the waste military munitions or when any failure to meet a condition of subsection (a)(1) of this Section occurs that may endanger human health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time when the transporter becomes aware of any loss or theft of the waste military munitions or when any failure to meet a condition of subsection (a)(1) of this Section occurs.
 - 2) If any waste military munitions shipped ~~pursuant to~~ subsection (a)(1) of this Section are not received by the receiving facility within 45 days after the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the Agency within five

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days.

- 3) The conditional exemption from regulation as hazardous waste in subsection (a)(1) of this Section must apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment, or disposal.
 - 4) The conditional exemption in subsection (a)(1) of this Section applies only so long as all of the conditions in subsection (a)(1) of this Section are met.
- b) Reinstatement of conditional exemption.
- 1) If any waste military munition loses its conditional exemption pursuant to~~under~~ subsection (a)(1) of this Section, the transporter may file with the Agency an application for reinstatement of the conditional exemption from hazardous waste transportation regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subsection (a)(1) of this Section.
 - 2) If the Agency finds that reinstatement of the conditional exemption is appropriate, it must reinstate the conditional exemption of subsection (a)(1) of this Section in writing. The Agency's decision to reinstate or not to reinstate the conditional exemption must be based on the nature of the risks to human health and the environment posed by the waste and either the transporter's provision of a satisfactory explanation of the circumstances of the violation or any demonstration that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. In reinstating the conditional exemption pursuant to~~under~~ subsection (a)(1) of this Section, the Agency may specify additional conditions as are necessary to ensure and document proper transportation to adequately protect human health and the environment. If the Agency does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement must be deemed granted, retroactive to the date of the application.
 - 3) The Agency may terminate a conditional exemption reinstated by default pursuant to subsection (b)(2) of this Section~~under the preceding sentence~~ in writing if it finds that reinstatement is inappropriate based on its

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consideration of the factors set forth in subsection (b)(2) of this Section. If the Agency terminates a reinstated exemption, it must transmit to the applicant specific, detailed statements in writing as to the reasons it terminated the reinstated exemption.

- 4) The applicant ~~pursuant to~~ ~~under~~ this subsection (b) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].
- c) Amendments to DOD shipping controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in subsection (a)(1)(B) of this Section are Government Bill of Lading (GBL) (GSA Standard Form 1109), Requisition Tracking Form (DD Form 1348), the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

BOARD NOTE: Corresponding federal provision 40 CFR 266.203(c) (2005) further provides as follows: "Any amendments to the Department of Defense shipping controls must become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in paragraph (a)(1)(ii) of this section have been amended." (40 CFR 266.203(a)(1)(ii) corresponds with 35 Ill. Adm. Code 726.303(a)(1)(B).) Section 5-75 of the Illinois Administrative Procedure Act [5 ILCS 100/5-75] prohibits the incorporation of later amendments and editions by reference. For this reason, interested members of the regulated community will need to notify the Board of any amendments of these references before those amendments can become effective under Illinois law.

(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

Section 726.305 Standards Applicable to the Storage of Solid Waste Military Munitions

- a) Criteria for hazardous waste regulation of waste non-chemical military munitions in storage.
 - 1) Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste ~~pursuant to~~ ~~under~~ 35 Ill.

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Adm. Code 721 are listed or identified as a hazardous waste (and thus are subject to regulation pursuant to~~under~~ 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726~~, 728, 733, 738, and 739), unless all the following conditions are met:

- A) The waste military munitions are not chemical agents or chemical munitions;
- B) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB);
- C) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions;
- D) Within 90 days of when a storage unit is first used to store waste military munitions, the owner or operator must notify the Agency of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in subsection (a)(1) of this Section is claimed;
- E) The owner or operator must provide oral notice to the Agency within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of subsection (a)(1) of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of subsection (a)(1) of this Section;
- F) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of subsection (a)(1) of this Section, and must maintain records of the findings of these inventories and inspections for at least three years; and
- G) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

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- 2) The conditional exemption in subsection (a)(1) of this Section from regulation as hazardous waste must apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.
 - 3) The conditional exemption in subsection (a)(1) of this Section applies only so long as all of the conditions in subsection (a)(1) of this Section are met.
- b) Notice of termination of waste storage. The owner or operator must notify the Agency when a storage unit identified in subsection (a)(1)(D) of this Section will no longer be used to store waste military munitions.
- c) Reinstatement of conditional exemption.
- 1) If any waste military munition loses its conditional exemption pursuant to~~under~~ subsection (a)(1) of this Section, an application may be filed with the Agency for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subsection (a)(1) of this Section.
 - 2) If the Agency finds that reinstatement of the conditional exemption is appropriate, it must reinstate the conditional exemption of subsection (a)(1) of this Section in writing. The Agency's decision to reinstate or not to reinstate the conditional exemption must be based on the nature of the risks to human health and the environment posed by the waste and either the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation, or any demonstration that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. In reinstating the conditional exemption pursuant to~~under~~ subsection (a)(1) of this Section, the Agency may specify additional conditions as are necessary to ensure and document proper storage to adequately protect human health and the environment.
 - 3) The Agency may terminate a conditional exemption reinstated by default pursuant to~~under the preceding subsection (c)(2)~~~~sentence~~ in writing if it finds that reinstatement is inappropriate based on its consideration of the factors set forth in subsection (c)(2) of this Section. If the Agency

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terminates a reinstated exemption, it must transmit to the applicant specific, detailed statements in writing as to the reasons it terminated the reinstated exemption.

- 4) The applicant ~~pursuant to~~ ~~under~~ this subsection (c) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].
- d) Waste chemical munitions.
- 1) Waste military munitions that are chemical agents or chemical munitions and which exhibit a hazardous waste characteristic or which are listed as hazardous waste ~~pursuant to~~ ~~under~~ 35 Ill. Adm. Code 721, are listed or identified as a hazardous waste and are subject to the applicable regulatory requirements of RCRA subtitle C.
 - 2) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste ~~pursuant to~~ ~~under~~ 35 Ill. Adm. Code 721 are not subject to the storage prohibition in RCRA section 3004(j), codified at 35 Ill. Adm. Code 728.150.
- e) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in subsection (a)(1)(C) of this Section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, incorporated by reference in 35 Ill. Adm. Code 720.111.

BOARD NOTE: Corresponding federal provision 40 CFR 266.205(e), as added at 62 Fed. Reg. 6656 (Feb. 12, 1997), further provides as follows: "Any amendments to the DDESB storage standards must become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in paragraph (a)(1) of this section have been amended." Section 5-75 of the Illinois Administrative Procedure Act [5 ILCS 100/5-75] prohibits the incorporation of later amendments and editions by reference. For this reason, interested members of the regulated community will need to notify the Board of any amendments of these references before those amendments can become effective under Illinois law.

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(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

Section 726.306 Standards Applicable to the Treatment and Disposal of Waste Military Munitions

The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and 728, and 738.~~

(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

SUBPART N: CONDITIONAL EXEMPTION FOR LOW-LEVEL MIXED WASTE STORAGE, TREATMENT, TRANSPORTATION AND DISPOSAL**Section 726.345 Reclaiming a Lost Storage and Treatment Conditional Exemption**

- a) A generator may reclaim a lost storage and treatment conditional exemption for its LLMW if the following conditions are fulfilled:
- 1) The generator again meets the conditions specified in Section 726.330; and
 - 2) The generator sends the Agency a notice by certified delivery that the generator is reclaiming the exemption for its LLMW. The generator's notice must be signed by its authorized representative certifying that the information contained in the generator's notice is true, complete, and accurate. In its notice, the generator must do the following:
 - A) Explain the circumstances of each failure.
 - B) Certify that the generator has corrected each failure that caused it to lose the exemption for its LLMW and that the generator again meets all the conditions as of the date that the generator specifies.
 - C) Describe plans that the generator has implemented, listing specific steps that it has taken, to ensure that the conditions will be met in the future.
 - D) Include any other information that the generator wants the Agency

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to consider when it reviews the generator's notice reclaiming the exemption.

- b) The Agency may terminate a reclaimed conditional exemption if it determines, in writing, pursuant to Section 39 of the Act [415 ILCS 5/39], that the generator's claim is inappropriate based on factors including, but not limited to, the following: the generator has failed to correct the problem; the generator explained the circumstances of the failure unsatisfactorily; or the generator failed to implement a plan with steps to prevent another failure to meet the conditions of Section 726.330. In reviewing a reclaimed conditional exemption pursuant to ~~under~~ this Section, the Agency may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will adequately protect human health and the environment. Any Agency determination made pursuant to this subsection (b) is subject to review by the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

Section 726.355 Waste No Longer Eligible for a Storage and Treatment Conditional Exemption

- a) When a generator's LLMW has met the requirements of its federal NRC or ~~IEMA~~Illinois EMA license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date the generator's waste is subject to hazardous waste regulation under the relevant provisions Sections of 35 Ill. Adm. Code 702, 703, 720 through ~~726, and 728, and 738~~, and the time period for accumulation of a hazardous waste, as specified in 35 Ill. Adm. Code 722.134 begins.
- b) When a generator's conditionally exempt LLMW, which has been generated and stored under a single federal NRC or Illinois EMA license number, is removed from storage, it is no longer eligible for the storage and treatment exemption. However, a generator's waste may be eligible for the transportation and disposal conditional exemption at Section 726.405.

(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

Section 726.460 Reclaiming a Lost Transportation and Disposal Conditional Exemption

- a) A generator may reclaim a lost transportation and disposal conditional exemption

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for a waste after the generator has received a return receipt confirming that the Agency and the IEMA have received the generator's notification of the loss of the exemption specified in Section 726.455(a) and if the following conditions are fulfilled:

- 1) The generator again meets the conditions specified in Section 726.415 for the waste; and
 - 2) The generator sends a notice, by certified delivery, to the Agency that the generator is reclaiming the exemption for the waste. A generator's notice must be signed by the generator's authorized representative certifying that the information provided is true, accurate, and complete. The notice must include all of the following:
 - A) An explanation of the circumstances of each failure;
 - B) A certification that each failure that caused the generator to lose the exemption for the waste has been corrected and that the generator again meets all conditions for the waste as of the date the generator specifies;
 - C) A description of plans that the generator has implemented, listing the specific steps that the generator has taken, to ensure that conditions will be met in the future; and
 - D) Any other information that the generator wants the Agency to consider when the Agency reviews the generator's notice reclaiming the exemption.
- b) The Agency may terminate a reclaimed conditional exemption if it determines, in writing, pursuant to Section 39 of the Act [415 ILCS 5/39], that the generator's claim is inappropriate based on factors including, but not limited to, the following: the generator has failed to correct the problem; the generator explained the circumstances of the failure unsatisfactorily; or the generator has failed to implement a plan with steps to prevent another failure to meet the conditions of Section 726.415. In reviewing a reclaimed conditional exemption ~~pursuant to~~ pursuant to this Section, the Agency may add conditions to the exemption to ensure that transportation and disposal activities will adequately protect human health and the environment. Any Agency determination made pursuant to this subsection (b) is subject to review by the Board pursuant to Section 40 of the Act

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[415 ILCS 5/40].

(Source: Amended at 31 Ill. Reg. 1096, effective December 20, 2006)

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- 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)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
727.100	New Section
727.110	New Section
727.130	New Section
727.150	New Section
727.170	New Section
727.190	New Section
727.210	New Section
727.240	New Section
727.270	New Section
727.290	New Section
727.900	New Section
727.APPENDIX A, ILLUSTRATION A	New Section
727.APPENDIX A, ILLUSTRATION B	New Section
727.APPENDIX B, TABLE A	New Section
727.APPENDIX B, TABLE B	New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The present rules include references to incorporations of documents by reference for the purposes of new Part 727. These include references to federal regulations for financial assurance instruments and for a listing of incompatible wastes, a reference to federally approved test methods, and a reference to a building code developed by a nationally recognized standards organization.
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, and all materials

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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: 30 Ill. Reg. 7380; April 21, 2006
- 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 11/16/06, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated 4/6/06, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The adoption of new Part 727 is a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 728, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of

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the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 727 implement segments of the 9/8/05 and 10/13/05 federal amendments. The amendments incorporate the core elements of the Standardized Permit Rule into the RCRA Subtitle C hazardous waste regulations. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's opinion and order of 11/16/06 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 4/6/06 opinion and order.

- 16) Information and questions regarding this rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's opinion and order of 11/16/06, 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 Rules begins on the next page:

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

PART 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.

Section 727.100 General

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- a) Purpose, scope and applicability.
- 1) The purpose of this Part is to establish minimum national standards that define the acceptable management of hazardous waste under a RCRA standardized permit, as such is defined in 35 Ill. Adm. Code 702.110 and 720.110, issued pursuant to Subpart J of 35 Ill. Adm. Code 703.
 - 2) This Part applies to owners and operators of facilities that treat or store hazardous waste under a RCRA standardized permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided otherwise in Subpart A of 35 Ill. Adm. Code 721 or 35 Ill. Adm. Code 724.101(f) and (g).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.1, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The exemptions of subsection (a)(2) of this Section are directly derived from corresponding 40 CFR 267.1(b). The Board assumes that USEPA exempted from the RCRA standardized permit requirements those wastes excluded from the definition of hazardous waste (in Subpart A of 35 Ill. Adm. Code 721) and those exempted from the T/S/D facility standards (by 35 Ill. Adm. Code 724.101(g)). The Board has retained the reference to 35 Ill. Adm. Code 724.101(f), even though it does no more than reference corresponding 40 CFR 264.1(f), which relates exclusively to the applicability of the federal regulations.

- b) Relationship to interim status standards. A facility owner or operator that has fully complied with the requirements for interim status, as defined in section 3005(e) of federal RCRA and regulations pursuant to 35 Ill. Adm. Code 703.153, must comply with the regulations specified in 35 Ill. Adm. Code 725 instead of the regulations in this Part, until final administrative disposition of the RCRA standardized permit application is made, except as provided in Subpart S of 35 Ill. Adm. Code 724.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.2, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Effect on a federal imminent hazard action. Notwithstanding any other provisions of this Part, enforcement actions may be brought in a federal court pursuant to section 7003 of RCRA.

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BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.3, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The corresponding federal regulation relates to an imminent hazard action under RCRA. An enforcement action for violation of any applicable provision of the Environmental Protection Act [415 ILCS 5] (Act) is also possible.

- d) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

Section 727.110 General Facility Standards

- a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste under a Subpart J of 35 Ill. Adm. Code 703 RCRA standardized permit, except as provided in Section 727.100(a)(2).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.10, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Compliance with this Section. To comply with this Section, the facility owner or operator must obtain a USEPA identification number, and follow the requirements of this Part for waste analysis, security, inspections, training, special waste handling, and location standards.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.11, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Obtaining a USEPA identification number. The facility owner or operator must apply to USEPA for a USEPA identification number following the USEPA notification procedures and using USEPA form 8700-12. The owner or operator may obtain information and required forms from the Agency or from USEPA Region 5.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.12, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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- d) Waste analysis requirements.
- 1) Before it treats or stores any hazardous wastes, the facility owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information needed to treat or store the waste to comply with this Part and 35 Ill. Adm. Code 728.
 - A) The facility owner or operator may include data in the analysis that was developed pursuant to 35 Ill. Adm. Code 721 or data published or documented on the hazardous waste or on hazardous waste generated from similar processes.
 - B) The facility owner or operator must repeat the analysis as necessary to ensure that it is accurate and up to date. At a minimum, the owner or operator must repeat the analysis if the process or operation generating the hazardous wastes has changed.
 - 2) The facility owner or operator must develop and follow a written waste analysis plan that describes the procedures it will follow to comply with subsection (d)(1) of this Section. The owner or operator must keep this plan at the facility. If the owner or operator receives wastes generated from off-site and is eligible for a RCRA standardized permit, the owner or operator also must have submitted the waste analysis plan with the Notice of Intent. At a minimum, the plan must specify all of the following:
 - A) The hazardous waste parameters that the owner or operator will analyze and the rationale for selecting these parameters (that is, how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection (d)(1) of this Section).
 - B) The test methods the owner or operator will use to test for these parameters.
 - C) The sampling method the owner or operator will use to obtain a representative sample of the waste to be analyzed. The owner or operator may obtain a representative sample using either of the following methods:

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- i) One of the sampling methods described in Appendix A of 35 Ill. Adm. Code 721; or
 - ii) An equivalent sampling method.
- D) How frequently the owner or operator will review or repeat the initial analysis of the waste to ensure that the analysis is accurate and up to date.
- E) Where applicable, the methods the owner or operator will use to meet the additional waste analysis requirements for specific waste management methods, as specified in 35 Ill. Adm. Code 724.117, 724.934(d), 724.963(d), and 724.983.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.13, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- e) Security requirements.
- 1) The facility owner or operator must prevent, and minimize the possibility for, livestock and unauthorized people from entering the active portion of its facility.
 - 2) The facility must have either of the features listed in subsection (e)(2)(A) of this Section or those listed in subsections (e)(2)(B) and (e)(2)(C) of this Section:
 - A) A 24-hour surveillance system (for example, television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry onto the active portion of the facility; or
 - B) An artificial or natural barrier (for example, a fence in good repair or a fence combined with a cliff) that completely surrounds the active portion of the facility; and
 - C) A means to control entry, at all times, through the gates or other entrances to the active portion of the facility (for example, an attendant, television monitors, locked entrance, or controlled roadway access to the facility).

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- 3) The facility owner or operator must post a sign at each entrance to the active portion of a facility, and at other prominent locations, in sufficient numbers to be seen from any approach to this active portion. The sign must bear the legend "Danger – Unauthorized Personnel Keep Out." The legend must be in English and in any other language predominant in the area surrounding the facility (for example, French or Spanish), and must be legible from a distance of at least 25 feet. The owner or operator may use existing signs with a legend other than "Danger – Unauthorized Personnel Keep Out" if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and entry onto the active portion can be dangerous.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.14, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- f) General inspection requirements.
 - 1) The owner or operator must inspect its facility for malfunctions and deterioration, operator errors, and discharges that may be causing, or may lead to either of the conditions listed in subsection (f)(1)(A) or (f)(1)(B) of this Section. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they result in harm to human health and the environment.
 - A) A release of hazardous waste constituents to the environment; or
 - B) A threat to human health.
 - 2) The facility 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.
 - A) The owner or operator must keep this schedule at the facility.
 - B) The schedule must identify the equipment and devices that the owner or operator will inspect and what problems it will look for, such as malfunctions or deterioration of equipment (for example,

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inoperative sump pump, leaking fitting, etc.).

C) The frequency of the owner's or operator's inspections 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. At a minimum, the inspection schedule must include the items and frequencies required in Sections 727.270(e), 727.290(d) and (f), and 727.900(d) and 35 Ill. Adm. Code 724.933, 724.952, 724.953, 724.958, and 724.983 through 724.989, where applicable.

- 3) The facility owner or operator must remedy any deterioration or malfunction of equipment or structures that the inspection reveals in time to prevent any environmental or human health hazards. Where hazard is imminent or has already occurred, the owner or operator must take immediate remedial action.
- 4) The facility owner or operator must record all inspections. The owner or operator must keep these records for at least three years from the date of inspection. At a minimum, the owner or operator 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.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.15, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Employee training.

- 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 facility owner or operator must ensure that this program includes all the elements described in the documents that are required pursuant to subsection (g)(4)(C) of this Section.

A) A person trained in hazardous waste management procedures must

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direct this program, and must teach facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to their employment positions.

- B) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by including instruction on emergency procedures, emergency equipment, and emergency systems, including all of the following, where applicable:
- i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment.
 - ii) Key parameters for automatic waste feed cut-off systems.
 - iii) Communications or alarm systems.
 - iv) Response to fires or explosions.
 - v) Response to groundwater contamination incidents.
 - vi) Shutdown of operations.
- 2) Facility personnel must successfully complete the program required in subsection (g)(1) of this Section within 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 the owner's or operator's RCRA standardized permit must not work in unsupervised positions until they have completed the training requirements of subsection (g)(1) of this Section.
- 3) Facility personnel must take part in an annual review of the initial training required in subsection (g)(1) of this Section.
- 4) The facility owner or operator must maintain the following documents and records at its facility:
- A) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

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- B) A written job description for each position listed pursuant to subsection (g)(4)(A) of this Section. This description must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;
 - C) 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 pursuant to subsection (g)(4)(A) of this Section;
 - D) Records that document that facility personnel have received and completed the training or job experience required pursuant to subsections (g)(1), (g)(2), and (g)(3) of this Section.
- 5) The facility owner or operator must keep training records on current personnel until its facility closes. The owner or operator must keep training records on former employees for at least three years from the date the employee last worked at its facility. Personnel training records may accompany personnel transferred within a company.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.16, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- h) Requirements for managing ignitable, reactive, or incompatible wastes.
 - 1) The facility owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste by following these requirements:
 - A) The owner or operator must separate these wastes and protect them from sources of ignition or reaction such as open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (for example, from heat-producing chemical reactions), and radiant heat.
 - B) While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flames to specially designated locations.
 - C) "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

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- 2) If it treats or stores ignitable or reactive waste, or mixes incompatible waste or incompatible wastes and other materials, the owner or operator must take precautions to prevent reactions that do the following:
 - A) Generate extreme heat or pressure, fire or explosions, or violent reactions.
 - B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment.
 - C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions.
 - D) Damage the structural integrity of the device or facility.
 - E) Threaten human health and the environment in any similar way.
- 3) The facility owner or operator must document compliance with subsection (h)(1) or (h)(2) of this Section. The owner or operator may base this documentation on references to published scientific or engineering literature, data from trial tests (for example bench scale or pilot scale tests), waste analyses (as specified in Section 727.110(d)), or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.17, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- i) Facility location standards.
 - 1) The facility owner or operator may not locate any portion of a new facility where hazardous waste will be treated or stored within 61 meters (200 feet) of a fault that has had displacement in Holocene time.
 - 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.

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- C) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

BOARD NOTE: Under the note to corresponding 40 CFR 267.18(a)(3) and 40 CFR 270.14(b)(11), a facility that is located in a political jurisdiction other than those listed in appendix VI of 40 CFR 264 is assumed to be in compliance with this requirement. No area of Illinois is listed in appendix VI of 40 CFR 264.

- 2) If an owner's or operator's facility is located within a 100-year flood plain, it must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.

- A) "100-year flood plain" 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 equaled or exceeded in any given year.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.18, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.130 Preparedness and Prevention

- a) Applicability of this Section. This Section applies to the owner and operator of a facility that treats or stores 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).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.30, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) General facility design and operation standards. The facility owner or operator must design, construct, maintain, and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of

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hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

- c) Required facility equipment. A facility must be equipped with all of the following, unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:
- 1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
 - 2) 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;
 - 3) 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
 - 4) Water at adequate volume and pressure to supply water hose streams, or foam-producing equipment, or automatic sprinklers, or water spray systems.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.32, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Equipment testing and maintenance requirements. The facility owner or operator must test and maintain all required facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, as necessary, to assure its proper operation in time of emergency.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.33, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- e) Facility personnel access to communication equipment or an alarm system.
- 1) Whenever hazardous waste 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

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the device is not required pursuant to Section 727.130(c).

- 2) If just one employee is on the premises while the facility is operating, that person must have immediate access to a communication 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 the device is not required pursuant to Section 727.130(c).

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.34, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- f) Ensuring access for personnel and equipment during emergencies. The facility owner or operator must maintain enough 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, as appropriate, considering the type of waste being stored or treated.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.35, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- g) Required emergency arrangements with local authorities.
 - 1) The facility owner or operator must attempt to make the following arrangements, as appropriate, for the type of waste handled at its facility and the potential need for the services of these organizations:
 - A) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes;
 - B) Agreements designating primary emergency authority to a specific police and a specific fire department where more than one police and fire department might respond to an emergency, and agreements with any others to provide support to the primary emergency authority;
 - C) Agreements with State emergency response teams, emergency

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response contractors, and equipment suppliers; and

D) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

2) If State or local authorities decline to enter into such arrangements, the facility owner or operator must document the refusal in the operating record.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.36, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.150 Contingency Plan and Emergency Procedures

a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores 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).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.50, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) The purpose and use of the contingency plan.

1) The facility owner or operator must have a contingency plan for its facility. The owner or operator must design the plan to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

2) The owner or operator must implement the provisions of the plan immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.51, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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- c) Contents of the contingency plan.
- 1) The facility contingency plan must include the following information:
 - A) It must describe the actions facility personnel will take to comply with subsections (b) and (g) of this Section 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) It must describe all arrangements agreed upon pursuant to Section 727.130(g) by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services;
 - C) It must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (f) of this Section), and the owner or operator must keep the list 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;
 - D) It must include a current 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. In addition, the facility owner or operator must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and
 - E) It must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. The 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).
 - 2) If the facility owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan pursuant to federal 40 CFR 112, or some other emergency or contingency plan, the owner or operator

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needs only to amend that plan to incorporate hazardous waste management provisions that will comply with the requirements of this Part.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.52, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Who must have copies of the contingency plan.
- 1) The facility owner or operator must maintain a copy of the plan with all revisions at the facility; and
 - 2) The owner or operator must submit a copy with all revisions to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.53, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- e) When the facility owner or operator must amend the contingency plan. The facility owner or operator must review, and immediately amend the contingency plan, if necessary, whenever any of the following occurs:
- 1) The facility permit is revised;
 - 2) The plan fails in an emergency;
 - 3) The owner or operator changes the facility (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;
 - 4) The owner or operator changes the list of emergency coordinators; or
 - 5) The owner or operator changes the list of emergency equipment.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.54, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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- f) The role of the emergency coordinator. At least one employee must be either on the facility premises or on call at all times (that is, available to respond to an emergency by reaching the facility within a short period of time) who has 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 characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.55, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- g) Required emergency procedures for the emergency coordinator.
- 1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately undertake the following actions:
 - A) He or she must activate internal facility alarm or communication systems, where applicable, to notify all facility personnel; and
 - B) He or she must notify appropriate State or local agencies with designated response roles if their help is needed.
 - 2) Whenever there is a release, fire, or explosion, the emergency coordinator must undertake the following actions:
 - A) He or she must immediately identify the character, exact source, amount, and 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; and
 - B) He or she 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. For example, the assessment would consider 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

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heat-induced explosions.

- 3) 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:
 - A) If his or her assessment indicates 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
 - B) He or she must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll-free number 800-424-8802). The report must include the following information:
 - i) The name and telephone number of the reporter;
 - ii) The name and address of facility;
 - iii) The time and type of incident (for example, a release or a fire);
 - iv) The name and quantity of materials involved, to the extent known;
 - v) The extent of injuries, if any; and
 - vi) The possible hazards to human health, or the environment outside the facility.
- 4) 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.
- 5) If the facility stops operations in response to a fire, explosion, or release,

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the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, when appropriate.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.56, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- h) The emergency coordinator's responsibilities after an emergency.
 - 1) 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.
 - 2) The emergency coordinator must ensure that the following occur in the affected areas of the facility:
 - A) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and
 - B) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.57, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- i) Emergency notification and recordkeeping requirements.
 - 1) The facility owner or operator must notify the Agency and other appropriate State and local authorities that the facility is in compliance with Section 727.150(h)(2) before operations are resumed in the affected areas of the facility.
 - 2) The facility owner or operator must note the time, date, and details of any incident that requires implementing the contingency plan in the operating record. Within 15 days after the incident, the owner or operator must submit a written report on the incident to the Agency. The owner or operator must include the following information in the report:

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- A) The name, address, and telephone number of the owner or operator;
- B) The name, address, and telephone number of the facility;
- C) The date, time, and type of incident (e.g., fire, explosion);
- D) The name and quantity of materials involved;
- E) The extent of injuries, if any;
- F) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- G) The estimated quantity and disposition of recovered material that resulted from the incident.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.58, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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, 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;

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- 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

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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, 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

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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, 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

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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; and
- 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.

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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, 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, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- f) Submission of reports. The facility owner or operator must prepare a biennial report and other reports listed in subsection (f)(2) of this Section.
 - 1) Biennial report. The facility owner or operator must prepare and submit a single copy of a biennial report to the Agency by March 1 of each even numbered year. The biennial report must be submitted on USEPA Form 8700-13B. The report must cover facility activities during the previous two calendar years 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) The method of treatment or storage for each hazardous waste;

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- 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 otherwise required by Sections 727.270, 727.290, and 727.900 and Subparts AA, BB, and CC of 35 Ill. Adm. Code 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, 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

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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, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.190 Releases from Solid Waste Management Units

- a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores 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), or unless its facility already has a permit that imposes requirements for corrective action pursuant to 35 Ill. Adm. Code 724.201.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.90, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) This subsection (b) corresponds with 40 CFR 267.91, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- c) This subsection (c) corresponds with 40 CFR 267.92, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- d) This subsection (d) corresponds with 40 CFR 267.93, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- e) This subsection (e) corresponds with 40 CFR 267.94, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- f) This subsection (f) corresponds with 40 CFR 267.95, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- g) This subsection (g) corresponds with 40 CFR 267.96, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

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- h) This subsection (h) corresponds with 40 CFR 267.97, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- i) This subsection (i) corresponds with 40 CFR 267.98, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- j) This subsection (j) corresponds with 40 CFR 267.99, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- k) This subsection (k) corresponds with 40 CFR 267.100, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- l) Requirements for addressing corrective action for solid waste management units.
 - 1) The facility owner or operator must institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the facility, regardless of the time at which waste was placed in such unit.
 - 2) The Agency must specify corrective action in the supplemental portion of the facility owner's or operator's RCRA standardized permit in accordance with this subsection (l) and Subpart S of 35 Ill. Adm. Code 724. The Agency must include in the supplemental portion of the RCRA standardized permit schedules of compliance for corrective action (where corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing corrective action.
 - 3) The facility owner or operator must implement corrective action beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the Agency that, despite its best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. The owner or operator is 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

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determined on a case-by-case basis. The owner or operator must provide assurances of financial responsibility for such corrective action.

- 4) The facility owner or operator of a remediation site does not have to comply with this subsection (m) unless the site is part of a facility that is subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.

BOARD NOTE: Subsection (l) of this Section is derived from 40 CFR 267.101, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.210 Closure

- a) Applicability of this Section. This Section applies to the facility owner or operator of a facility that treats or stores 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).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.110, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Required general standards when operations cease. The facility owner or operator must close the storage and treatment units in a manner that fulfills the following conditions:
 - 1) It minimizes the need for further maintenance;
 - 2) It controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground, to surface waters, or to the atmosphere; and
 - 3) It meets the closure requirements of this Section and the requirements of Sections 727.270(g), 727.290(l), and 727.900(i). If the facility owner or operator determines that, when applicable, the closure requirements of Section 727.290(l) (tanks) or 727.900(i) (containment buildings) cannot be met, then the facility owner or operator must close the unit in accordance with the requirements that apply to landfills (35 Ill. Adm. Code 724.410). In addition, for the purposes of post-closure and financial responsibility,

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such a tank system or containment building is then considered to be a landfill, and the owner or operator must apply for a post-closure care permit in accordance with 35 Ill. Adm. Code 702 and 703.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.111, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Closure procedures.
- 1) To close a facility, the facility owner or operator must follow its approved closure plan, and follow notification requirements.
 - A) The facility owner or operator must submit its closure plan at the time it submits its Notice of Intent to operate under a RCRA standardized permit. Final issuance of the RCRA standardized permit constitutes approval of the closure plan, and the plan becomes a condition of the RCRA standardized permit.
 - B) The Agency's approval of the plan must ensure that the approved plan is consistent with Sections 727.210(b) through (f), 727.270(g), 727.290(l), and 727.900(i).
 - 2) Content of closure plan. The closure plan must identify steps necessary to perform partial or final closure of the facility. The closure plan must include at least the following minimum information:
 - A) A description of how each hazardous waste management unit at the facility subject to this Section will be closed following the requirements of Section 727.210(b);
 - B) A description of how final closure of the facility will be conducted in accordance with Section 727.210(b). The description must identify the maximum extent of the operations that will be unclosed during the active life of the facility;
 - C) An estimate of the maximum inventory of hazardous wastes ever on site during the active life of the facility and a detailed description of the methods that the facility owner or operator will use during partial or final closure, such as methods for removing, transporting, treating, storing, or disposing of all hazardous wastes,

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and identification of the types of off-site hazardous waste management units to be used, if applicable;

- D) 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 or final closure. These might include procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;
 - E) A detailed description of other activities necessary during the closure period to ensure that partial or final closure satisfies the closure performance standards;
 - F) 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 allow tracking of progress of partial or final closure; and
 - G) For facilities that use trust funds to establish financial assurance pursuant to Section 727.240(d) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.
- 3) The facility owner or operator may submit a written notification to the Agency for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility, following the applicable procedures in 35 Ill. Adm. Code 705.304.
- A) Events leading to a change in the closure plan, and therefore requiring a modification, may include the following:
 - i) A change in the operating plan or facility design;
 - ii) A change in the expected year of closure, if applicable; or

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- iii) In conducting partial or final closure activities, an unexpected event requiring a modification of the approved closure plan.
 - B) The written notification or request must include a copy of the amended closure plan for review or approval by the Agency. The Agency must approve, disapprove, or modify this amended plan in accordance with the procedures in 35 Ill. Adm. Code 703.353 and 705.304.
- 4) Notification before final closure.
- A) The facility owner or operator must notify the Agency in writing at least 45 days before the date that it expects to begin final closure of a treatment or storage tank, container storage area, or containment building.
 - B) The date when the owner or operator "expects to begin closure" must be no later than 30 days after the date that any hazardous waste management unit receives the known final volume of hazardous wastes.
 - C) If the facility's permit is terminated, or if the facility owner or operator is otherwise ordered, by a federal judicial decree or final order pursuant to section 3008 of RCRA (42 USC 6928), to cease receiving hazardous wastes or to close, then the requirements of this subsection (c)(4) do not apply. However, the owner or operator must close the facility following the deadlines established in subsection (f) of this Section.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.112, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Opportunity for public comment on the plan.
- 1) The Agency must provide the facility owner or operator and the public, when the draft RCRA standardized permit is public noticed, the opportunity to submit written comments on the plan and to the draft permit as allowed by 35 Ill. Adm. Code 705.303(b). The Agency must also, in response to a request or at its own discretion, hold a public hearing

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whenever it determines that such a hearing might clarify one or more issues concerning the closure plan, and the permit.

- 2) The Agency must give public notice of the hearing 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.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.113, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- e) This subsection (e) corresponds with 40 CFR 267.114, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- f) Time allowed for closure.
 - 1) Within 90 days after the final volume of hazardous waste is sent to a unit, the facility owner or operator must treat or remove all hazardous wastes from the unit following the approved closure plan.
 - 2) The facility owner or operator must complete final closure activities in accordance with the approved closure plan within 180 days after the final volume of hazardous wastes is sent to the unit. The Agency may approve an extension of 180 days to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that the conditions of subsections (f)(2)(A) and (f)(2)(B) of this Section are fulfilled subject to the limitation of subsection (f)(2)(C) of this Section:
 - A) The final closure activities will take longer than 180 days to complete due to circumstances beyond the control of the owner or operator, excluding groundwater contamination; and
 - B) The facility 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 permit requirements.

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C) The demonstration of subsections (f)(2)(A) and (f)(2)(B) of this Section must be made at least 30 days prior to the expiration of the initial 180-day period.

3) Nothing in this subsection (f) precludes the facility owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved final closure plan at any time before or after notification of final closure.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.115, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Disposition of contaminated equipment, structure, and soils. The facility owner or operator must properly dispose of or decontaminate all contaminated equipment, structures, and soils during the partial and final closure periods. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste following all applicable requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.116, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

h) Certification of closure. Within 60 days after the completion of final closure of each unit under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 705, the facility owner or operator must submit to the Agency, by registered mail, a certification that each hazardous waste management unit or facility, as applicable, has been closed following the specifications in the closure plan. Both the owner or operator and an independent registered professional engineer must sign the certification. The owner or operator must furnish documentation supporting the independent registered professional engineer's certification to the Agency upon request until the Agency releases the owner or operator from the financial assurance requirements for closure pursuant to Section 727.240(d)(9).

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.117, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.240 Financial Requirements

a) Applicability and substance of the financial requirements.

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- 1) The regulations in this Section apply to owners and operators who treat or store hazardous waste under a RCRA standardized permit, except as provided in Section 727.100(a)(2) or subsection (a)(4) of this Section.
- 2) The facility owner or operator must do each of the following:
 - A) It must prepare a closure cost estimate as required in subsection (c) of this Section;
 - B) It must demonstrate financial assurance for closure as required in subsection (d) of this Section; and
 - C) It must demonstrate financial assurance for liability as required in subsection (h) of this Section.
- 3) The owner or operator must notify the Agency if the owner or operator is named as a debtor in a bankruptcy proceeding under Title 11 (Bankruptcy) of the United States Code (see also subsection (i) of this Section).
- 4) States and the federal government are exempt from the requirements of this Section.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.140, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Definitions of terms as used in this Section.
 - 1) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 727.210(c).
 - 2) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsections (c)(1), (c)(2), and (c)(3) of this Section.
 - 3) This subsection (b)(3) corresponds with 40 CFR 267.141(c), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
 - 4) "Parent corporation" means a corporation that directly owns at least 50

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percent of the voting stock of the corporation which is the facility owner or operator. In this instance, the owned corporation that is the facility owner or operator is deemed a "subsidiary" of the parent corporation.

- 5) This subsection (b)(5) corresponds with 40 CFR 267.141(e), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- 6) The following terms are used in the specifications for the financial tests for closure and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices:

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

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

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

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

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

- 7) In the liability insurance requirements, the terms "bodily injury" and "property damage" have the meanings given them by applicable State law. However, these terms do not include those liabilities that, consistent with standard industry practices, are excluded from coverage in liability insurance policies for bodily injury and property damage. The Agency intends the meanings of other terms used in the liability insurance

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requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

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

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

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

- 8) "Substantial business relationship" means the extent of a business relationship necessary under applicable State law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the facility owner or operator is demonstrated to the satisfaction of the Agency.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.141, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Cost estimate for closure.
- 1) The facility owner or operator must have at the facility a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Section 727.210(b) through (f) and applicable closure requirements in Sections 727.270(g), 727.290(l), and 727.900(i).
- A) 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 the

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closure plan (see Section 727.210(c)(2)).

- B) 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 who is neither a parent nor a subsidiary of the owner or operator. (See the definition of parent corporation in subsection (b)(4) of this Section.) The owner or operator may use costs for on-site disposal if it can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.
 - C) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.
 - D) The facility owner or operator may not incorporate a zero cost for hazardous wastes, or non-hazardous wastes that might have economic value.
- 2) During the active life of the facility, the facility 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 subsection (d) of this Section. 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 guarantor's fiscal year and before submission of updated information to the Agency as specified in subsection (n)(3) of this Section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross Domestic Product (Deflator) published by the U.S. Department of Commerce in its Survey of Current Business, as specified in subsections (c)(2)(A) and (c)(2)(B) of this Section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.
- A) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

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- B) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.
- 3) During the active life of the facility, the facility owner or operator must revise the closure cost estimate 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 (c)(2) of this Section.
- 4) The facility 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 (c)(1) and (c)(3) of this Section and, when this estimate has been adjusted in accordance with subsection (c)(2) of this Section, the latest adjusted closure cost estimate.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.142, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Financial assurance for closure. The facility owner or operator must establish financial assurance for closure of each storage or treatment unit that it owns or operates. In establishing financial assurance for closure, the owner or operator must choose from among the financial assurance mechanisms in subsections (d)(1) through (d)(7) of this Section. The owner or operator can also use a combination of mechanisms for a single facility if it meets the requirement in subsection (d)(8) of this Section, or it may use a single mechanism for multiple facilities as in subsection (d)(9) of this Section. The Agency must release the owner or operator from the requirements of this subsection (d) after the owner or operator meets the criteria pursuant to subsection (d)(10) of this Section.
 - 1) Closure trust fund. An owner or operator may use the "closure trust fund" that is specified in 35 Ill. Adm. Code 724.243(a)(1), (a)(2), and (a)(6) through (a)(11). For purposes of this subsection (d)(1), the following provisions also apply:
 - A) Payments into the trust fund for a new facility must be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan, or over three years, whichever period is shorter. This period of time is hereafter referred to as the "pay-in period."

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- B) For a new facility, the facility owner or operator must make the first payment into the closure trust fund before the facility may accept the initial storage. A receipt from the trustee must be submitted by the owner or operator to the Agency before this initial storage of waste. The first payment must be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period, except as provided in subsection (d)(8) of this Section for multiple mechanisms. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The owner or operator determines the amount of each subsequent payment by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period. Mathematically, the formula is as follows:

$$NP = \frac{(CCE - CVTF)}{YRPP}$$

Where:

- NP = the amount of the next payment
CCE = the current closure cost estimate
CVTF = the current value of the trust fund
YRPP = the years remaining in the pay-in period.

- C) The owner or operator of a facility existing on the effective date of this subsection (d)(1) can establish a trust fund to meet the financial assurance requirements of this subsection (d)(1). If the value of the trust fund is less than the current closure cost estimate when a final approval of the permit is granted for the facility, the owner or operator must pay the difference into the trust fund within 60 days.
- D) The facility owner or operator may accelerate payments into the trust fund or deposit the full amount of the closure cost estimate when establishing the trust fund. 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 subsections (d)(1)(B) or (d)(1)(C) of this Section.

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- E) The facility owner or operator must submit a trust agreement with the wording specified in 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 2) Surety bond guaranteeing payment into a closure trust fund. An owner or operator may use the "surety bond guaranteeing payment into a closure trust fund," as specified in 35 Ill. Adm. Code 724.243(b), including the use of the surety bond instrument specified at 40 CFR 264.151(b), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and the standby trust specified at 35 Ill. Adm. Code 724.243(b)(3).
- 3) Surety bond guaranteeing performance of closure. An owner or operator may use the "surety bond guaranteeing performance of closure," as specified in 35 Ill. Adm. Code 724.243(c), the submission and use of the surety bond instrument specified at 40 CFR 264.151(c), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and the standby trust specified at 35 Ill. Adm. Code 724.243(c)(3).
- 4) Closure letter of credit. An owner or operator may use the "closure letter of credit" specified in 35 Ill. Adm. Code 724.243(d), the submission and use of the irrevocable letter of credit instrument specified in 40 CFR 264.151(d), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and the standby trust specified in 35 Ill. Adm. Code 724.243(d)(3).
- 5) Closure insurance. An owner or operator may use "closure insurance," as specified in 35 Ill. Adm. Code 724.243(e), utilizing the certificate of insurance for closure specified at 40 CFR 264.151(e), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 6) Corporate financial test. An owner or operator that satisfies the requirements of this subsection (d)(6) may demonstrate financial assurance up to the amount specified in this subsection (d)(6).
- A) Financial component. See subsection (m) of this Section.

BOARD NOTE: It was necessary for the Board to codify corresponding 40 CFR 267.143(f)(1) as subsection (m) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to

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this subsection (d), (d)(6), or (d)(6)(A) also include added subsection (m) of this Section, as applicable.

- B) Recordkeeping and reporting requirements. See subsection (n) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(2) as subsection (n) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(B) also include added subsection (n) of this Section, as applicable.

- C) The terms of the guarantee must provide as set forth in subsection (o) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(3) as subsection (o) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(C) also include added subsection (o) of this Section, as applicable.

- 7) Corporate guarantee.

- A) A facility owner or operator may meet the requirements of this subsection (d) by obtaining a written 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 subsection (d)(6) of this Section and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording in 40 CFR 264.151(h), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The certified copy of the guarantee must accompany the letter from the guarantor's chief financial officer and accountants' opinions. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value

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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.

- B) For a new facility, the guarantee must be effective and the guarantor must submit the items in subsection (d)(7)(A) of this Section and the items specified in subsection (n)(1) of this Section to the Agency at least 60 days before the owner or operator places waste in the facility.
- C) The terms of the guarantee must provide as required by subsection (o) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(g)(3) as subsection (o) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(7), or (d)(7)(C) also include added subsection (o) of this Section, as applicable.

- D) If a corporate guarantor no longer meets the requirements of subsection (d)(6)(A) of this Section, the owner or operator must, within 90 days, obtain alternative assurance, and submit the assurance to the Agency for approval. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within the next 30 days, and submit it to the Agency for approval.
- E) The guarantor is no longer required to meet the requirements of this subsection (d)(7) when either of the following occurs:
 - i) The facility owner or operator substitutes alternate financial assurance as specified in this subsection (d); or
 - ii) The facility owner or operator is released from the requirements of this subsection (d) in accordance with subsection (d)(10) of this Section.

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- 8) Use of multiple financial mechanisms. An owner or operator may use more than one mechanism at a particular facility to satisfy the requirements of this subsection (d). The acceptable mechanisms are trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, insurance, the financial test, and the guarantee, except owners or operators cannot combine the financial test with the guarantee. The mechanisms must be as specified in subsections (d)(1), (d)(2), (d)(4), (d)(5), (d)(6), and (d)(7) of this Section, respectively, except it is the combination of mechanisms rather than a single mechanism that must provide assurance for an amount at least equal to the cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, it may use the trust fund as the standby trust for the other mechanisms. A single trust fund can be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for closure of the facility.
- 9) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial mechanism for multiple facilities, as specified in 35 Ill. Adm. Code 724.243(h).
- 10) Release of the owner or operator from the requirements of this subsection (d). Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency will notify the owner or operator in writing that the owner or operator is no longer required by this subsection (d) to maintain financial assurance for final closure of the facility, unless the Agency has reason to believe that final closure has not been completed in accordance with the approved closure plan. The Agency must provide the owner or operator with a detailed written statement of any such reasons to believe that closure has not been conducted in accordance with the approved closure plan.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.143, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- e) This subsection (e) corresponds with 40 CFR 267.144, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

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- f) This subsection (f) corresponds with 40 CFR 267.145, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- g) This subsection (g) corresponds with 40 CFR 267.146, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- h) Liability requirements.
 - 1) Coverage for sudden accidental occurrences. The owner or operator of a hazardous waste treatment or storage 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 subsection (h)(1)(A) through (h)(1)(G) of this Section:
 - A) Trust fund for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a trust fund for liability coverage as specified in 35 Ill. Adm. Code 724.247(j).
 - B) Surety bond for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a surety bond for liability coverage as specified in 35 Ill. Adm. Code 724.247(i).
 - C) Letter of credit for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a letter of credit for liability coverage as specified in 35 Ill. Adm. Code 724.247(h).
 - D) Insurance for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining liability insurance as specified in 35 Ill. Adm. Code 724.247(a)(1).
 - E) Financial test for liability coverage. The owner or operator may

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meet the requirements of this subsection (h) by passing a financial test as specified in subsection (h)(6) of this Section.

- F) Guarantee for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a guarantee as specified in subsection (h)(7) of this Section.
 - G) Combination of mechanisms. The owner or operator may demonstrate the required liability coverage through the use of combinations of mechanisms as allowed by 35 Ill. Adm. Code 724.247(a)(6).
 - H) An owner or operator shall notify the Agency in writing within 30 days whenever either of the following occurs:
 - i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (h)(1)(A) through (h)(1)(G) of this Section; or
 - ii) A Certification of Valid Claim for bodily injury or property damages caused by a 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 (h)(1)(A) through (h)(1)(G) of this Section; or
 - iii) A final court order establishing a judgment for bodily injury or property damage caused by a 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 (h)(1)(A) through (h)(1)(G) of this Section.
- 2) This subsection (h)(2) corresponds with 40 CFR 267.147(b), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

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- 3) This subsection (h)(3) corresponds with 40 CFR 267.147(c), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- 4) This subsection (h)(4) corresponds with 40 CFR 267.147(d), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- 5) Period of coverage. Within 60 days after receiving certifications from the facility owner or operator and 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 he is no longer required by this section to maintain liability coverage from that facility, unless the Agency has reason to believe that closure has not been in accordance with the approved closure plan.
- 6) Financial test for liability coverage. A facility owner or operator that satisfies the requirements of this subsection (h)(6) may demonstrate financial assurance for liability up to the amount specified in this subsection (h)(6):
 - A) Financial component.
 - i) If using the financial test for only liability coverage, the owner or operator must have tangible net worth greater than the sum of the liability coverage to be demonstrated by this test plus \$10 million.
 - ii) The owner or operator must have assets located in the United States amounting to at least the amount of liability covered by this financial test.
 - iii) An owner or operator who is demonstrating coverage for liability and any other environmental obligations, including closure pursuant to subsection (d)(6) of this Section, through a financial test must meet the requirements of subsection (d)(6) of this Section.
 - B) Recordkeeping and reporting requirements. See subsection (p) of this Section.

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BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.147(f)(2) as subsection (p) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (h), (h)(6), or (h)(6)(B) also include added subsection (p) of this Section, as applicable. See the further explanation of the differences between subsection (q) of this Section and 40 CFR 267.147(g)(2) in the Board note appended to subsection (q).

- 7) Guarantee for liability coverage.
 - A) Subject to subsection (h)(7)(B) of this Section, a facility owner or operator may meet the requirements of this subsection (h) by obtaining a written guarantee, hereinafter referred to as "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 (h)(6)(A) and (h)(6)(B) of this Section. The wording of the guarantee must be identical to the wording specified in 40 CFR 264.151(h)(2), incorporated by reference in 35 Ill. Adm. Code 720.111(b). A certified copy of the guarantee must accompany the items sent to the Agency as specified in subsection (h)(6)(B) 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.
 - i) If the facility 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 accidental occurrences arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or

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alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.

- ii) This subsection (h)(7)(A)(ii) corresponds with 40 CFR 267.147(g)(1)(ii), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

- B) Foreign Corporations. See subsection (q) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.147(g)(2) as subsection (q) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (h), (h)(7), or (h)(7)(B) also include added subsection (q) of this Section, as applicable.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.147, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- i) Incapacity of owners or operators, guarantors, or financial institutions.
 - 1) The facility owner or operator must notify the Agency by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in subsections (d)(7) and (h)(7) of this Section must make such a notification if it is named as debtor, as required under the terms of the corporate guarantee (see 40 CFR 264.151(h), incorporated by reference in 35 Ill. Adm. Code 720.111(b)).
 - 2) An owner or operator who fulfills the requirements of subsection (d) or (h) of this Section by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

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BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.148, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- j) This subsection (j) corresponds with 40 CFR 267.149, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- k) State assumption of responsibility.
 - 1) If the State either assumes legal responsibility for an owner's or operator's compliance with the closure care or liability requirements of this Part or assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with the requirements of subsection (d) or (h) of this Section if the Agency determines that the State's assumption of responsibility is at least equivalent to the financial mechanisms specified in this Section. The Agency must evaluate the equivalency of State guarantees principally in terms of the following: the certainty of the availability of funds for the required closure care activities or liability coverage; and the amount of funds that will be made available. The Agency may also consider other factors as it deems appropriate. The facility owner or operator must submit to the Agency a letter from the State describing the nature of the State's assumption of responsibility together with a letter from the owner or operator requesting that the State's assumption of responsibility be considered acceptable for meeting the requirements of this Section. The letter from the State must include, or have attached to it, the following information: the facility's USEPA identification number, the facility name and address, and the amount of funds for closure care or liability coverage that are guaranteed by the State. The Agency will notify the owner or operator of his determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this Section. The Agency may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of subsection (d) or (h) of this Section, as applicable.
 - 2) If a State's assumption of responsibility is found acceptable as specified in subsection (k)(1) of this Section except for the amount of funds available,

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the owner or operator may satisfy the requirements of this Section by use of both the State's assurance and additional financial mechanisms as specified in this Section. The amount of funds available through the State and federal mechanisms must at least equal the amount required by this Section.

BOARD NOTE: Subsection (k) of this Section is derived from 40 CFR 267.150, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

l) Wording of the instruments.

- 1) The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who uses a financial test to demonstrate financial assurance for that facility must complete a letter as specified in subsection (d)(6) of this Section. The letter must be worded as set forth in Appendix A, Illustration A of this Part.

BOARD NOTE: It was necessary for the Board to codify the form set forth in 40 CFR 267.151(a) as Appendix A, Illustration A of this Part. The Board intends that any citation to this subsection (l) or (l)(1) also include added Appendix A, Illustration A of this Part, as applicable.

- 2) The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who use a financial test to demonstrate financial assurance only for third party liability for that (or other RCRA standardized permit) facility (or those facilities) must complete a letter as specified in subsection (h)(6) of this Section. The letter must be worded as set forth in Appendix A, Illustration A of this Part.

BOARD NOTE: It was necessary for the Board to codify the form set forth in 40 CFR 267.151(b) as Appendix A, Illustration B of this Part. The Board intends that any citation to this subsection (l) or (l)(2) also include added Appendix A, Illustration B of this Part, as applicable.

BOARD NOTE: Subsection (l) of this Section is derived from 40 CFR 267.151, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

m) Financial component.

- 1) The facility owner or operator must satisfy one of the following three

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conditions:

- A) A current rating for its senior unsecured debt of AAA, AA, A, or BBB, as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; or
 - B) A ratio of less than 1.5 comparing total liabilities to net worth; or
 - C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.
- 2) The tangible net worth of the owner or operator must be greater than both of the following:
- A) The sum of the current environmental obligations (see subsection (n)(1)(A)(i) of this Section), including guarantees, covered by a financial test plus \$10 million, except as provided in subsection (m)(2)(B) of this Section; and
 - B) \$10 million in tangible net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the environmental obligations (see subsection (n)(1)(A)(i) of this Section) covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.
- 3) The facility owner or operator must have assets located in the United States amounting to at least the sum of environmental obligations covered by a financial test as described in subsection (n)(1)(A)(i) of this Section.

BOARD NOTE: Subsection (m) of this Section is derived from 40 CFR 267.143(f)(1), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(A) of this Section also include this added subsection (m), as applicable.

- n) Recordkeeping and reporting requirements.

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- 1) The facility 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 that provides the following information:
 - i) It lists all the applicable current types, amounts, and sums of environmental obligations covered by a financial test. These obligations include both obligations in the programs that USEPA directly operates and obligations where USEPA has delegated authority to a State or approved a State's program. These obligations include, but are not limited to the information described in subsection (n)(1)(E) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(2)(i)(A)(I) through (f)(2)(i)(A)(I)(vii) as subsection (n)(1)(E) through (n)(1)(E)(vii) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(B) of this Section or to this subsection (n), (n)(1), (n)(1)(A), or (n)(1)(A)(i) also include added subsection (n)(1)(E) through (n)(1)(E)(vii) of this Section, as applicable.
 - ii) It provides evidence demonstrating that the firm meets the conditions of either subsection (m)(1)(A), (m)(1)(B), or (m)(1)(C) of this Section and subsections (m)(2) and (m)(3) of this Section.
 - B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency may evaluate qualified opinions on a case-by-case

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basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this section within 30 days after the notification of disallowance.

- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (m)(1)(B) or (m)(1)(C) of this Section that are different from data in the audited financial statements referred to in subsection (n)(1)(B) of this Section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.
- D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations as provided in subsection (m)(2)(B) of this Section, then the letter shall include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least \$10 million plus the amount of any guarantees provided.
- E) Contents of the letter signed by the chief financial officer (for the purposes of subsection (n)(1)(A)(i) of this Section):
- i) The liability, closure, post-closure and corrective action cost estimates required for hazardous waste treatment, storage, and disposal facilities pursuant to the applicable provisions of 35 Ill. Adm. Code 724.201, 724.242, 724.244,

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724.247, 725.242, 725.244, and 725.247;

- ii) The cost estimates required for municipal solid waste management facilities pursuant to the applicable provisions of Subpart G of 35 Ill. Adm. Code 811;
- iii) The current plugging cost estimates required for UIC facilities pursuant to 35 Ill. Adm. Code 704.212;
- iv) The federally required cost estimates required for petroleum underground storage tank facilities pursuant to 40 CFR 280.93;
- v) The federally required cost estimates required for PCB storage facilities pursuant to 40 CFR 761.65;
- vi) Any federally required financial assurance required by or as part of an action undertaken pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9601 et seq.); and
- vii) Any other environmental obligations that are assured through a financial test.

BOARD NOTE: Subsections (n)(1)(E) through (n)(1)(E)(vi) of this Section is derived from 40 CFR 267.143(f)(2)(i)(A)(I) through (f)(2)(i)(A)(I)(vi), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), (d)(6)(B), (n)(1), (n)(1)(A), or (n)(1)(A)(i) of this Section also include added subsections (n)(1)(E) through (n)(1)(E)(vi), as applicable.

- 2) The owner or operator of a new facility must submit the items specified in subsection (n)(1) of this Section to the Agency at least 60 days before placing waste in the facility.
- 3) After the initial submission of items specified in subsection (n)(1) of this Section, the owner or operator must send updated information to the

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Agency within 90 days following the close of the owner or operator's fiscal year. The Agency may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (n)(1) of this Section.

- 4) The owner or operator is no longer required to submit the items specified in this subsection (n) of this Section or comply with the requirements of subsection (d)(6) of this Section when either of the following occurs:
 - A) The owner or operator substitutes alternate financial assurance as specified in subsection (d) of this Section that is not subject to these recordkeeping and reporting requirements; or
 - B) The Agency releases the owner or operator from the requirements of subsection (d) of this Section in accordance with subsection (d)(10) of this Section.
- 5) An owner or operator who no longer meets the requirements of subsection (m) of this Section cannot use the financial test to demonstrate financial assurance. Instead an owner or operator who no longer meets the requirements of subsection (m) of this Section, must do the following:
 - A) It must send notice to the Agency of intent to establish alternate financial assurance as specified in this section. The owner or operator must send this notice by certified mail within 90 days following the close the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of subsection (m) and subsections (d), (m), and (o) of this Section; and
 - B) It must provide alternative financial assurance within 120 days after the end of such fiscal year.
- 6) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (m) of this Section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in subsection (n) of this Section. If the Agency finds that the owner or operator no longer meets the requirements of subsection (m) of

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this Section, the owner or operator must provide alternate financial assurance that meets the requirements of subsection (d) of this Section.

BOARD NOTE: Subsection (n) of this Section is derived from 40 CFR 267.143(f)(2), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(B) of this Section also include this added subsection (n), as applicable.

- o) The terms of the guarantee must provide as follows:
 - 1) If the facility owner or operator fails to perform closure at a facility covered by the guarantee, the guarantor will accomplish the following:
 - A) It will perform, or pay a third party to perform closure (performance guarantee); or
 - B) It will establish a fully funded trust fund as specified in subsection (d)(1) of this Section in the name of the owner or operator (payment guarantee).
 - 2) The guarantee will remain in force for as long as the facility owner or operator must comply with the applicable financial assurance requirements of this Section unless the guarantor sends prior 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.
 - 3) If notice of cancellation is given, the facility owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the Agency, obtain alternate financial assurance, and submit documentation for that alternate financial assurance to the Agency. If the owner or operator fails to provide alternate financial assurance and obtain the written approval of such alternative assurance from the Agency within the 90-day period, the guarantor must provide that alternate assurance in the name of the owner or operator and submit the necessary documentation for the alternative assurance to the Agency within 120 days after the cancellation notice.

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BOARD NOTE: Subsection (o) of this Section is derived from 40 CFR 267.143(f)(3), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(C) of this Section also include this added subsection (o), as applicable.

- p) Recordkeeping and reporting requirements.
- 1) 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 that provides evidence demonstrating that the firm meets the conditions of subsections (h)(6)(A)(i) and (h)(6)(A)(ii) of this Section. If the firm is providing only liability coverage through a financial test for a facility or facilities with a permit pursuant to this Part 727, the letter should use the wording in subsection (l)(2) of this Section. If the firm is providing only liability coverage through a financial test for facilities regulated pursuant to this Part 727 and 35 Ill. Adm. Code 724 or 725, it should use the letter in 40 CFR 264.151(g), incorporated by reference in 35 Ill. Adm. Code 720.111(b). If the firm is providing liability coverage through a financial test for a facility or facilities with a permit pursuant to this Part 727, and it assures closure costs or any other environmental obligations through a financial test, it must use the letter in subsection (l)(1) of this Section for the facilities issued a permit pursuant to this Part 727.
 - B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are

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insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this subsection (h) within 30 days after the notification of disallowance.

- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsections (h)(6)(A)(i) and (h)(6)(A)(ii) of this Section that are different from data in the audited financial statements referred to in subsection (p)(1)(B) of this Section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.
- 2) The owner or operator of a new facility must submit the items specified in subsection (p)(1) of this Section to the Agency at least 60 days before placing waste in the facility.
- 3) After the initial submission of items specified in subsection (p)(1) of this Section, the facility owner or operator must send updated information to the Agency within 90 days following the close of the owner or operator's fiscal year. The Agency may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (p)(1) of this Section.
- 4) The owner or operator is no longer required to submit the items specified in this subsection (p) or comply with the requirements of subsection (h)(6) of this Section when either of the following occurs:
- A) The facility owner or operator substitutes alternate financial assurance as specified in subsection (h) of this Section that is not subject to these recordkeeping and reporting requirements; or

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- B) The Agency releases the facility owner or operator from the requirements of subsection (h) of this Section in accordance with subsection (d)(10) of this Section.
- 5) An owner or operator that no longer meets the requirements of subsection (h)(6)(A) of this Section cannot use the financial test to demonstrate financial assurance. An owner or operator who no longer meets the requirements of subsection (h)(6)(A) of this Section, must do the following:
- A) Send notice to the Agency of intent to establish alternate financial assurance as specified in this section. The facility owner or operator must send this notice by certified mail within 90 days following the close of the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this section.
 - B) Provide alternative financial assurance within 120 days after the end of such fiscal year.
- 6) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (h)(6)(A) of this Section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in this subsection (p) of this Section. If the Agency finds that the owner or operator no longer meets the requirements of subsection (h)(6)(A) of this Section, the owner or operator must provide alternate financial assurance that meets the requirements of subsection (h) of this Section.

BOARD NOTE: Subsection (p) of this Section is derived from 40 CFR 267.147(f)(2), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (h), (h)(6), or (h)(6)(B) of this Section also include this added subsection (p), as applicable.

- q) Foreign Corporations.

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- 1) 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.
- 2) 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].

BOARD NOTE: Subsection (q) of this Section is derived from 40 CFR 267.147(g)(2), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (h), (h)(7), or (h)(7)(B) of this Section also include this added subsection (q), as applicable. The text of 40 CFR 267.147(g)(2) is substantially identical to that of 40 CFR 264.147(g)(2). The Board has substituted the language of 35 Ill. Adm. Code 724.247(g)(2), which corresponds with 40 CFR 264.147(g)(2), for that of 40 CFR 267.147(g)(2).

Section 727.270 Use and Management of Containers

- a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste in containers under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.170, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Standards applicable to containers. Standards apply to the condition of containers, to the compatibility of waste with containers, and to the management of containers holding hazardous waste.

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- 1) Condition of containers. If a container holding hazardous waste is not in good condition (for example, it exhibits severe rusting or apparent structural defects) or if it begins to leak, the facility owner or operator must undertake either of the following actions:
 - A) It must transfer the hazardous waste from the defective container to a container that is in good condition; or
 - B) It must manage the waste in some other way that complies with the requirements of this Part.
- 2) Compatibility of waste with containers. To ensure that the ability of the container to contain the waste is not impaired, the facility owner or operator must use a container made of or lined with materials that are compatible and will not react with the hazardous waste to be stored.
- 3) Management of containers.
 - A) The facility owner or operator must always keep a container holding hazardous waste closed during storage, except when it adds or removes waste.
 - B) The facility owner or operator must never open, handle, or store a container holding hazardous waste in a manner that may rupture the container or cause it to leak.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.171, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Inspection requirements. At least weekly, the facility owner or operator must inspect areas where it stores containers, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.172, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Standards applicable to the container storage areas.
 - 1) The facility owner or operator must design and operate a containment

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system for its container storage areas according to the requirements in subsection (d)(2) of this Section, except as otherwise provided by subsection (d)(3) of this Section.

- 2) The design and operating requirements for a containment system are the following:
 - A) A base must underlie 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;
 - B) 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;
 - C) The containment system must have sufficient capacity to contain 10 percent of the volume of all containers placed in it, or the volume of the largest container, whichever is greater. This requirement does not apply to containers that do not contain free liquids;
 - D) The owner or operator must prevent run-on into the containment system, unless the collection system has sufficient excess capacity to contain the liquid, in addition to that required by subsection (d)(2)(C) of this Section; and
 - E) The owner or operator must remove any spilled or leaked waste and accumulated precipitation from the sump or collection area as promptly as is necessary to prevent overflow of the collection system.
- 3) Except as provided in subsection (d)(4) of this Section, the owner or operator does not need a containment system, as defined in subsection (d)(2) of this Section, for storage areas that store containers holding only wastes with no free liquids if either of the following conditions are fulfilled:

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- A) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or
 - B) The containers are elevated or are otherwise protected from contact with accumulated liquid.
- 4) The facility owner or operator must have a containment system defined by subsection (d)(2) of this Section for storage areas that store containers holding F020, F021, F022, F023, F026, and F027 wastes, even if the wastes do not contain free liquids.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.173, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- e) Special requirements for ignitable or reactive waste. The facility owner or operator must locate containers holding ignitable or reactive waste at least 15 meters (50 feet) from its facility property line. The owner or operator must also follow the general requirements for ignitable or reactive wastes that are specified in Section 727.110(h)(1).

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.174, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- f) Special requirements for incompatible wastes.
- 1) The facility owner or operator must not place incompatible wastes or incompatible wastes and materials (see appendix V to 40 CFR 264, incorporated by reference in 35 Ill. Adm. Code 720.111(b), for examples) in the same container, unless it complies with Section 727.110(h)(2).
 - 2) The facility owner or operator must not place hazardous waste in an unwashed container that previously held an incompatible waste or material.
 - 3) The facility owner or operator must separate a storage container holding a hazardous waste that is incompatible with any waste or with other materials stored nearby in other containers, piles, open tanks, or surface impoundments from the other materials, or protect the containers by means of a dike, berm, wall, or other device.

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BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.175, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- g) Requirements for stopping the use of containers. The facility owner or operator must remove all hazardous waste and hazardous waste residues from the containment system. The owner or operator must decontaminate or remove remaining containers, liners, bases, and soil containing, or contaminated with, hazardous waste or hazardous waste residues.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.176, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- h) Air emission standards. The facility owner or operator must manage all hazardous waste placed in a container according to the requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 724. Under a RCRA standardized permit, the following control devices are permissible: a thermal vapor incinerator, a catalytic vapor incinerator, a flame, a boiler, a process heater, a condenser, or a carbon absorption unit.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.177, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.290 Tank Systems

- a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste in above-ground or on-ground tanks under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2).
- 1) A facility owner or operator does not have to meet the secondary containment requirements in subsection (f) of this Section if its tank systems do not contain free liquids and are situated inside a building with an impermeable floor. The owner or operator must demonstrate the absence or presence of free liquids in the stored or treated waste, using Method 9095B (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA Publication SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).
 - 2) The facility owner or operator does not have to meet the secondary

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containment requirements of subsection (f)(1) of this Section if its tank system, including sumps, as defined in 35 Ill. Adm. Code 720.110, is part of a secondary containment system to collect or contain releases of hazardous wastes.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.190, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Required design and construction standards for new tank systems or components. The facility owner or operator 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 to ensure that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment, reviewed and certified by an independent, qualified registered professional engineer, following 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. This assessment must include, at a minimum, the following information:
- 1) Design standards for the construction of tanks or the ancillary equipment.
 - 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, such as the following:
 - i) Soil moisture content;
 - ii) Soil pH;
 - iii) Soil sulfides level;
 - iv) Soil resistivity;
 - v) Structure to soil potential;

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- vi) Existence of stray electric current; and
 - vii) Existing corrosion-protection measures (for example, coating, cathodic protection, etc.).
- B) The type and degree of external corrosion protection 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 (for example, impressed current or sacrificial anodes); and
 - iii) Electrical isolation devices (such as insulating joints, flanges, etc.).
- 4) Design considerations to ensure that the following will occur:
- A) Tank foundations will maintain the load of a full tank;
 - B) 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 727.110(i)(1); and
 - C) Tank systems will withstand the effects of frost heave.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.191, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Handling and inspection procedures during installation of new tank systems.
 - 1) The facility owner or operator must ensure that it follows proper handling procedures to prevent damage to a new tank system during installation. Before placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered

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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:

- A) Weld breaks;
 - B) Punctures;
 - C) Scrapes of protective coatings;
 - D) Cracks;
 - E) Corrosion; or
 - F) Other structural damage or inadequate construction or installation.
- 2) The facility owner or operator must remedy all discrepancies before the tank system is placed in use.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.192, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Testing requirements. The facility owner or operator must test all new tanks and ancillary equipment for tightness before you place them in use. If the owner or operator finds a tank system that is not tight, it must perform all repairs necessary to remedy the leaks in the system before it covers, encloses, or places the tank system into use.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.193, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- e) Installation requirements.
- 1) The facility owner or operator must support and protect ancillary equipment against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.
 - 2) The facility owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided pursuant to subsection (b)(3) of this

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Section, to ensure the integrity of the tank system during use of the tank system. An independent corrosion expert must supervise the installation of a corrosion protection system that is field fabricated to ensure proper installation.

- 3) The facility owner or operator must obtain, and keep at the facility, written statements by those persons required to certify the design of the tank system and to supervise the installation of the tank system as required in subsections (c), (d), (e)(1), and (e)(2) of this Section. The written statement must attest that the tank system was properly designed and installed and that the owner or operator made repairs pursuant to subsections (c) and (d) of this Section. These written statements must also include the certification statement as required in 35 Ill. Adm. Code 702.126(d).

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.194, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- f) Secondary containment requirements. To prevent the release of hazardous waste or hazardous constituents to the environment, the owner or operator must provide secondary containment that meets the requirements of this subsection (f) for all new and existing tank systems.
 - 1) Secondary containment systems must meet both of the following requirements:
 - A) It must be designed, installed, and operated to prevent any soil, groundwater, or surface water at any time during the use of the tank system; and
 - B) It must be capable of detecting and collecting releases and accumulated liquids until the collected material is removed.
 - 2) To meet the requirements of subsection (f)(1) of this Section, secondary containment systems must meet all of the following minimum requirements:
 - A) 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

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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);

- B) 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;
- C) 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; and
- D) It must be sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. The facility owner or operator must remove spilled or leaked waste and accumulated precipitation from the secondary containment system within 24 hours, or as promptly as possible, to prevent harm to human health and the environment.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.195, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- g) Required devices for secondary containment and their design, operating and installation requirements.
 - 1) Secondary containment for tanks must include one or more of the following features:
 - A) A liner (external to the tank);
 - B) A double-walled tank; and
 - C) An equivalent device; the owner or operator must maintain documentation of equivalency at the facility.
 - 2) An external liner system must fulfill the following requirements:

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- 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. The 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; and
 - 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 (that is, it must be capable of preventing lateral as well as vertical migration of the waste).
- 3) A double-walled tank must fulfill the following requirements:
- A) It must be designed as an integral structure (that is, it must be 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.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.196, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- h) Requirements for ancillary equipment. The facility owner or operator must provide ancillary equipment with secondary containment (for example, trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (f)(1) and (f)(2) of this Section, except for the following:
 - 1) Above ground piping (exclusive of flanges, joints, valves, and other

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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 above ground piping systems with automatic shut-off devices (for example, 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.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.197, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- i) General operating requirements for tank systems.
 - 1) The facility owner or operator must not place hazardous wastes or treatment reagents in a tank system if the substances could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.
 - 2) The facility owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include the following minimum requirements:
 - A) Spill prevention controls (for example, check valves, dry disconnect couplings, etc.);
 - B) Overfill prevention controls (for example, level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank, etc.); and
 - C) Sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.
 - 3) The facility owner or operator must comply with the requirements of subsection (k) of this Section if a leak or spill occurs in the tank system.

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BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.198, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- j) Inspection requirements. The facility owner or operator must comply with the following requirements for scheduling, conducting, and documenting inspections:
- 1) It must develop and follow a schedule and procedure for inspecting overfill controls;
 - 2) It must inspect the following at least once each operating day:
 - A) Aboveground portions of the tank system to detect corrosion or releases of waste;
 - B) Data gathered from monitoring and leak detection equipment (for example, pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design; and
 - C) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (for example, dikes) to detect erosion or signs of releases of hazardous waste (for example, wet spots, dead vegetation, etc.);
 - 3) It must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:
 - A) It must confirm that the cathodic protection system is operating properly within six months after initial installation and annually thereafter; and
 - B) It must inspect or test all sources of impressed current, as appropriate, at least every other month; and
 - 4) It must document, in the operating record of the facility, an inspection of those items in subsections (j)(1) through (j)(3) of this Section.

BOARD NOTE: Subsection (j) of this Section is derived from 40 CFR 267.199,

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as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- k) Required actions in case of a leak or a spill. If there has been a leak or a spill from a tank system or secondary containment system, or if either system is unfit for use, the facility owner or operator must remove the system from service immediately, and it must satisfy the following requirements:
- 1) It 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;
 - 2) It must remove the waste from the tank system or secondary containment system, as follows:
 - A) If the release was from the tank system, the owner or operator must, within 24 hours after detecting 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; or
 - B) If the material released was to a secondary containment system, the owner or operator must remove all released materials within 24 hours or as quickly as possible to prevent harm to human health and the environment;
 - 3) It must immediately conduct a visual inspection of the release and, based on that inspection, undertake the following actions:
 - A) It must prevent further migration of the leak or spill to soils or surface water; and
 - B) It must remove, and properly dispose of, any visible contamination of the soil or surface water;
 - 4) It must report any release to the environment, except as provided in subsection (k)(4)(A) of this Section, to the Agency within 24 hours of its detection. If the owner or operator has reported the release to USEPA pursuant to federal 40 CFR 302, that report will satisfy this requirement, subject to the following exceptions:

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- A) The facility owner or operator does not need to report on a leak or spill of hazardous waste if it fulfills the following conditions:
- i) The spill was less than or equal to a quantity of one pound; and
 - ii) The facility owner or operator immediately contained and cleaned up the spill; and
- B) Within 30 days of detection of a release to the environment, the owner or operator must submit a report to the Agency that contains the following information:
- i) The likely route of migration of the release;
 - ii) The characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate, etc.);
 - iii) The 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, the owner or operator must submit these data to the Agency as soon as they become available;
 - iv) The proximity to downgradient drinking water, surface water, and populated areas; and
 - v) A description of response actions taken or planned;
- 5) It must either close the system or make necessary repairs, as follows:
- A) Unless the owner or operator satisfies the requirements of subsections (k)(5)(B) and (k)(5)(C) of this Section, it must close the tank system according to subsection (l) of this Section;
 - B) 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 it removes the released waste and makes any necessary repairs; or

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- C) If the cause of the release was a leak from the primary tank system into the secondary containment system, the owner or operator must repair the system before returning the tank system to service; and
- 6) If the owner or operator has made extensive repairs to a tank system in accordance with subsection (k)(5) of this Section (for example, installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel, etc.), it may not return the tank system to service unless the repair is certified by an independent, qualified, registered, professional engineer in accordance with 35 Ill. Adm. Code 702.126(d), as follows:
 - A) The engineer must certify that the repaired system is capable of handling hazardous wastes without release for the intended life of the system; and
 - B) The facility owner or operator must submit this certification to the Agency within seven days after returning the tank system to use.

BOARD NOTE: Subsection (k) of this Section is derived from 40 CFR 267.200, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- l) Requirements when the owner or operator stops operating the tank system. When the facility owner or operator close a tank system, it must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste, unless 35 Ill. Adm. Code 721.103(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in Sections 727.210 and 727.240.

BOARD NOTE: Subsection (l) of this Section is derived from 40 CFR 267.201, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- m) Special requirements for ignitable or reactive wastes.
 - 1) The facility owner or operator may not place ignitable or reactive waste in tank systems, unless any of the following three conditions are fulfilled:
 - A) The owner or operator treats, renders, or mixes the waste before or

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immediately after placement in the tank system so that the following is true:

- i) The owner or operator complies with Section 727.110(h)(2); and
 - ii) The resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste pursuant to 35 Ill. Adm. Code 721.121 or 721.123;
- B) The owner or operator stores or treats the waste 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 facility owner or operator uses the tank system solely for emergencies.
- 2) If the facility owner or operator stores or treats ignitable or reactive waste in a tank, it must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built on, as required 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).

BOARD NOTE: Subsection (m) of this Section is derived from 40 CFR 267.202, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- n) Special requirements for incompatible wastes.
- 1) A facility owner or operator may not place incompatible wastes or incompatible wastes and materials in the same tank system, unless it complies with Section 727.110(h)(2).
 - 2) A facility owner or operator may not place hazardous waste in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless it complies with Section 727.110(h)(2).

BOARD NOTE: Subsection (n) of this Section is derived from 40 CFR 267.203,

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as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- o) Air emission standards. The facility owner or operator must manage all hazardous waste placed in a tank following the requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 724. Under a RCRA standardized permit, the following control devices are permissible: a thermal vapor incinerator, a catalytic vapor incinerator, a flame, a boiler, a process heater, a condenser, or a carbon absorption unit.

BOARD NOTE: Subsection (o) of this Section is derived from 40 CFR 267.204, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.900 Containment Buildings

- a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste in containment buildings under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2). Storage or treatment in a containment building is not land disposal, as defined in 35 Ill. Adm. Code 728.102, if the unit meets the requirements of subsections (b), (c), and (d) of this Section.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.1100, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Design and operating standards for containment buildings. A containment building must comply with the design and operating standards in this subsection (b). The Agency may consider standards established by professional organizations generally recognized by the industry, such as the American Concrete Institute (ACI) or the American Society of Testing Materials (ASTM), in judging the structural integrity requirements of this subsection (b).
- 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, runoff, etc.), and to assure containment of managed wastes.
 - 2) The floor and containment walls of the unit, including the secondary containment system, if required pursuant to subsection (d) of this Section, must be designed and constructed of manmade materials of sufficient strength and thickness to accomplish the following:

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- A) They must support themselves, the waste contents, and any personnel and heavy equipment that operates within the unit;
- B) They must prevent failure due to any of the following causes:
 - i) Pressure gradients, settlement, compression, or uplift;
 - ii) Physical contact with the hazardous wastes to which they are exposed;
 - iii) Climatic conditions;
 - iv) Stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls; or
 - v) Collapse or other failure.
- 3) All surfaces to be in contact with hazardous wastes must be chemically compatible with those wastes.
- 4) The facility owner or operator must not place incompatible hazardous wastes or treatment reagents in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail.
- 5) 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.
- 6) 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) The doors and windows provide an effective barrier against fugitive dust emissions pursuant to subsection (c)(4) of this Section; and

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- B) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings.
- 7) The facility owner or operator must 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.
- 8) The facility owner or operator must obtain certification by a qualified registered professional engineer that the containment building design meets the requirements of subsections (b)(1) through (b)(6), (c), and (d) of this Section.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.1101, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Other requirements for preventing releases. The facility owner or operator must use controls and practices to ensure containment of the hazardous waste within the unit and must meet the following minimum requirements:
- 1) It must maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;
 - 2) It must maintain the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;
 - 3) It must take measures to prevent personnel or by equipment used in handling the waste from tracking hazardous waste out of the unit. The owner or operator must designate an area to decontaminate equipment, and it must collect and properly manage any rinsate; and
 - 4) It must take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Method 22 of appendix A to 40 CFR 60 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), incorporated by reference in 35 Ill. Adm. Code 720.111(b)). In addition, the owner or operator must operate and maintain all associated

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particulate collection devices (for example, fabric filter, electrostatic precipitator, etc.) with sound air pollution control practices. The owner or operator must effectively maintain this state of no visible emissions at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.1102, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Additional design and operating standards when liquids are in the containment building. If a containment building will be used to manage hazardous wastes containing free liquids or treated with free liquids, as determined by the paint filter test, by a visual examination, or by other appropriate means, the facility 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 (for example, 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) The facility owner or operator must collect and remove liquids and waste 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 capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practical time, as follows:
 - A) The facility owner or operator may meet the requirements of the leak detection component of the secondary containment system by installing a system that meets the following minimum construction requirements:

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- i) It is constructed with a bottom slope of one 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} m²/sec or more;
- B) If the facility owner or operator will be conducting treatment in the building, it must design the area in which the treatment will be conducted to prevent the release of liquids, wet materials, or liquid aerosols to other portions of the building; and
- C) The facility owner or operator must construct the secondary containment system using 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.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.1103, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.1104, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- f) Requirements where the containment building contains areas both with and

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without secondary containment. For a containment building that contains both areas that have secondary containment and areas that do not have secondary containment, the facility owner or operator must fulfill the following requirements:

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

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.1105, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- g) Requirements in the event of a release. Throughout the active life of the containment building, if the facility 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.
 - 1) Upon detection of a condition that has lead to a release of hazardous waste (for example, upon detection of leakage from the primary barrier), the owner or operator must undertake each of the following actions:
 - A) It must enter a record of the discovery in the facility operating record;
 - B) It must immediately remove the portion of the containment building affected by the condition from service;
 - C) It must determine what steps it will need to take to repair the containment building, to remove any leakage from the secondary collection system, and to establish a schedule for accomplishing the cleanup and repairs; and
 - D) Within seven days after the discovery of the condition, it must notify the Agency of the condition, and within 14 working days,

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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.

- 2) 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.
- 3) Upon completing all repairs and cleanup, the facility owner or 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 (g)(1)(D) of this Section.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.1106, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- h) A containment building that can be considered secondary containment. A containment building can serve as an acceptable secondary containment system for tanks placed within the building if both of the following conditions are fulfilled:
 - 1) The containment building can serve as an external liner system for a tank if it meets the requirements of Section 727.290(g)(2); and
 - 2) The containment building also meets the requirements of Sections 727.290(f)(1), (f)(2)(A), and (f)(2)(B).

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.1107, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- i) Requirements when the owner or operator stops operating the containment building. When the facility owner or operator close a containment building, it must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate and manage them as hazardous waste unless 35 Ill. Adm. Code 721.103(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for containment

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buildings must meet all of the requirements specified in Sections 727.210 and 727.240.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.1108, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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Section 727.APPENDIX A Financial Assurance Forms

Section 727.ILLUSTRATION A Letter of Chief Financial Officer: Financial Assurance for Facility Closure

[The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who uses a financial test to demonstrate financial assurance for that facility must complete a letter as specified in subsection (d)(6) of this Section. The letter must be worded as follows, except that instructions in brackets are to be deleted or replaced with the relevant information, including this introductory paragraph, as appropriate, and the brackets deleted:]

I am the chief financial officer of [insert the name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for closure costs, as specified in 35 Ill. Adm. Code 727.240. This firm qualifies for the financial test on the basis of having [insert the appropriate of the following statements: "a current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's"; "a ratio of less than 1.50 comparing total liabilities to net worth"; or "a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities."]

This firm [insert the appropriate of the following statements: "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [insert the month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [insert the date].

[If this firm qualifies on the basis of its bond rating fill in the requested information:] This firm has a rating of its senior unsecured debt of [insert the bond rating] "from" [insert the appropriate of the following entities: "Standard and Poor's" or "Moody's"].

[Complete Line 1. Total Liabilities below and then skip the remaining questions in the next section and resume completing the form at the section entitled "Obligations Covered by a Financial Test or Corporate Guarantee."]

[If this firm qualifies for the financial test on the basis of its ratio of liabilities to net worth, or sum of income, depreciation, depletion, and amortization to net worth, please complete the following section.]

*1. Total Liabilities\$_____

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- *2. Net Worth\$ _____
- *3. Net Income\$ _____
- *4. Depreciation\$ _____
- *5. Depletion (if applicable)\$ _____
- *6. Amortization\$ _____
- *7. Sum of Lines 3, 4, 5 & 6\$ _____

[If the above figures are taken directly from the most recent audited financial statements for this firm insert the following statement: "The above figures are taken directly from the most recent audited financial statements for this firm." If they are not, insert the following statement: "The following items are not taken directly from the firms most recent audited financial statements" [insert the numbers of the items and attach an explanation of how they were derived.]

[Complete the following calculations:]

- 8. Line 1 ÷ Line 2 =\$ _____
- 9. Line 7 ÷ Line 1 =\$ _____
- Is Line 8 less than 1.5?Yes _____ No _____
- Is Line 9 greater than 0.10?Yes _____ No _____

[If you did not answer Yes to either of these two questions, you cannot use the financial test and need not complete this letter. Instead, you must notify the permitting authority for the facility that you intend to establish alternate financial assurance as specified in 35 Ill. Adm. Code 727.240(d). The owner or operator must send this notice by certified mail within 90 days following the close of the owner's or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of Section 727.240(d). The owner or operator must also provide alternative financial assurance within 120 days after the end of such fiscal year.]

Obligations Covered by a Financial Test or Corporate Guarantee

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[On the following lines list all obligations that are covered by a financial test or a corporate guarantee extended by your firm. You may add additional lines and leave blank entries that do not apply to your situation.]

Hazardous Waste Facility Name and ID	State	Closure	Post-Closure	Corrective Action
_____	_____	\$ _____	\$ _____	\$ _____
_____	_____	_____	_____	_____
Total Hazardous Waste Third-Party Liability:				\$ _____

Municipal Solid Waste Landfill Facilities	State	Closure	Post-Closure	Corrective Action
_____	_____	\$ _____	\$ _____	\$ _____
_____	_____	_____	_____	_____
Total Municipal Solid Waste Landfill Facility Liability:				\$ _____

Underground Injection Control Facilities	State	Plugging Action
_____	_____	\$ _____
_____	_____	_____
Total Underground Injection Control Facility Liability:		\$ _____

Petroleum Underground Storage Tanks	State	Closure
_____	_____	\$ _____
_____	_____	_____
Total Petroleum Underground Storage Tank Facility Liability:		\$ _____

PCB Storage Facility Name and ID	State	Closure
_____	_____	\$ _____
_____	_____	_____
Total PCB Storage Facility Liability:		\$ _____

Any financial assurance federally required under, or as part of an action taken under, the Comprehensive Environmental Response, Compensation, and Liability Act.

Site Name	State	Amount
_____	_____	\$ _____
_____	_____	_____
Total Financial Assurance under the Comprehensive Environmental Response, Compensation, and Liability Act:		\$ _____

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Any other environmental obligations that are assured through a financial test.

Site Name	Amount
_____	\$ _____
_____	_____
Total Other Environmental Obligations Assured:	\$ _____

*10. Total of all amounts\$ _____

*11. Line 10 + \$10,000,000 =\$ _____

*12. Total Assets\$ _____

*13. Intangible Assets\$ _____

*14. Tangible Assets (Line 12-Line 13)\$ _____

*15. Tangible Net Worth (Line 14-Line 1)\$ _____

*16. Assets in the United States\$ _____

Is Line 15 less than Line 11?Yes _____ No _____

Is Line 16 no less than Line 10?Yes _____ No _____

[You must be able to answer Yes to both these questions to use the financial test for this facility.]

I hereby certify that the wording of this letter is identical to the wording specified in Appendix A, Illustration A to 35 Ill. Adm. Code 727, as such regulations were constituted on the date shown immediately below.

[Signature] _____

[Name] _____

[Title] _____

[Date] _____

[After completion, a signed copy of the form must be sent to the Agency. In addition, a signed copy must be sent to every authority who (1) requires a demonstration through a financial test for

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each of the other obligations in the letter that are assured through a financial test, or (2) accepts a guarantee for an obligation listed in this letter.]

BOARD NOTE: This Appendix A, Illustration A is derived from 40 CFR 267.151(a), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to accommodate its unusual format. The Board intends that any citation to Section 727.240(l) or (l)(1) also include this added Appendix A, Illustration A, as applicable.

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Section 727.APPENDIX A Financial Assurance Forms

Section 727.ILLUSTRATION B Letter of Chief Financial Officer: Financial Assurance for Liability Coverage

[The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who use a financial test to demonstrate financial assurance only for third party liability for that (or other RCRA standardized permit) facility (or those facilities) must complete a letter as specified in subsection (h)(6) of this Section. The letter must be worded as follows, except that instructions in brackets are to be deleted or replaced with the relevant information, including this introductory paragraph, as appropriate, and the brackets deleted:]

I am the chief financial officer of [insert the name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for third party liability, as specified in 35 Ill. Adm. Code 727.240. This firm qualifies for the financial test on the basis of having tangible net worth of at least \$10 million more than the amount of liability coverage and assets in the United States of at least the amount of liability coverage. This firm [insert the appropriate of the following statements: "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [insert the month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [insert the date].

[Complete the following section.]

- *1. Total Assets\$ _____
- *2. Intangible Assets\$ _____
- *3. Tangible Assets (Line 1-Line 2)\$ _____
- *4. Total Liabilities\$ _____
- 5. Tangible Net Worth (Line 3-Line 4)\$ _____
- *6. Assets in the United States\$ _____
- 7. Amount of liability coverage\$ _____

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Is Line 5 At least \$10 million greater than Line 7?Yes _____No _____

Is Line 6 at least equal to Line 7?Yes _____No _____

[You must be able to answer Yes to both these questions to use the financial test for this facility.]

I hereby certify that the wording of this letter is identical to the wording specified in Appendix A, Illustration B to 35 Ill. Adm. Code 727, as such regulations were constituted on the date shown immediately below.

[Signature] _____

[Name] _____

[Title] _____

[Date] _____

[After completion, a signed copy of the form must be sent to the permitting authority of the state or territory where the facility is (or facilities are) located.]

BOARD NOTE: This Appendix A, Illustration B is derived from 40 CFR 267.151(b), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to accommodate its unusual format. The Board intends that any citation to Section 727.240(1) or (1)(2) also include this added Appendix A, Illustration B, as applicable.

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Section 727.APPENDIX B Correlation of State and Federal Provisions**Section 727.TABLE A Correlation of Federal RCRA Standardized Permit Provisions to State Provisions**

The following table sets forth the correlation of the federal RCRA Standardized Permit provisions with the State regulations. Where the structure of a State provision exactly parallels the corresponding federal provision from which it was derived, no expanded listing of the subsections appears. Where it was necessary to move or restructure the material from the federal regulations, a detailed listing of the location of each subsection appears.

40 CFR Provision	35 Ill. Adm. Code Provision
Subpart G of Part 124	Subpart G of Part 705
124.200	705.300(a)
124.201	705.300(b)
124.202	705.301(a)
124.203	705.301(b)
124.204	705.302(a)
124.205	705.302(b)
124.206	705.302(c)
124.207	705.303(a)
124.208	705.303(b)
124.209	705.303(c)
124.210	705.303(d)
124.211	705.304(a)
124.212	705.304(b)
124.213	705.304(c)
124.214	705.304(d)

40 CFR Provision	35 Ill. Adm. Code Provision
Subpart A of Part 267	727.100
267.1	727.100(a)
267.2	727.100(b)
267.3	727.100(c)
Subpart B of Part 267	727.110
267.10	727.110(a)
267.11	727.110(b)
267.12	727.110(c)
267.13	727.110(d)

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267.14	727.110(e)
267.15	727.110(f)
267.16	727.110(g)
267.17	727.110(h)
267.18	727.110(i)
Subpart C of Part 267	727.130
267.30	727.130(a)
267.31	727.130(b)
267.32	727.130(c)
267.33	727.130(d)
267.34	727.130(e)
267.35	727.130(f)
Subpart D of Part 267	727.150
267.50	727.150(a)
267.51	727.150(b)
267.52	727.150(c)
267.53	727.150(d)
267.54	727.150(e)
267.55	727.150(f)
267.56	727.150(g)
267.57	727.150(h)
267.58	727.150(i)
Subpart E of Part 267	727.170
267.70	727.170(a)
267.71	727.170(b)
267.72	727.170(c)
267.73	727.170(d)
267.74	727.170(e)
267.75	727.170(f)
267.76	727.170(g)
Subpart F of Part 267	727.190
267.90	727.190(a)
267.91 (Reserved)	727.190(b)
267.92 (Reserved)	727.190(c)
267.93 (Reserved)	727.190(d)
267.94 (Reserved)	727.190(e)
267.95 (Reserved)	727.190(f)
267.96 (Reserved)	727.190(g)
267.97 (Reserved)	727.190(h)

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267.98 (Reserved)	727.190(i)
267.99 (Reserved)	727.190(j)
267.100 (Reserved)	727.190(k)
267.101	727.190(l)
Subpart G of Part 267	727.210
267.110	727.210(a)
267.111	727.210(b)
267.112	727.210(c)
267.113	727.210(d)
267.114 (Reserved)	727.210(e)
267.115	727.210(f)
267.116	727.210(g)
267.117	727.210(h)
Subpart H of Part 267	727.240
267.140	727.240(a)
267.141	727.240(b)
267.142	727.240(c)
267.143	727.240(d)
267.143(f)(1)	727.240(d)(6)(A)
267.143(f)(1)	727.240(m)
267.143(f)(1)(i)	727.240(m)(1)
267.143(f)(1)(i)(A)	727.240(m)(1)(A)
267.143(f)(1)(i)(B)	727.240(m)(1)(B)
267.143(f)(1)(i)(C)	727.240(m)(1)(C)
267.143(f)(1)(ii)	727.240(m)(2)
267.143(f)(1)(ii)(A)	727.240(m)(2)(A)
267.143(f)(1)(ii)(B)	727.240(m)(2)(B)
267.143(f)(1)(iii)	727.240(m)(3)
267.143(f)(2)	727.240(d)(6)(B)
267.143(f)(2)	727.240(n)
267.143(f)(2)(i)	727.240(n)(1)
267.143(f)(2)(i)(A)	727.240(n)(1)(A)
267.143(f)(2)(i)(A)(I)	727.240(n)(1)(A)(i)
267.143(f)(2)(i)(A)(I)	727.240(n)(1)(E)
267.143(f)(2)(i)(A)(I)(i)	727.240(n)(1)(E)(i)
267.143(f)(2)(i)(A)(I)(ii)	727.240(n)(1)(E)(ii)
267.143(f)(2)(i)(A)(I)(iii)	727.240(n)(1)(E)(iii)
267.143(f)(2)(i)(A)(I)(iv)	727.240(n)(1)(E)(iv)
267.143(f)(2)(i)(A)(I)(v)	727.240(n)(1)(E)(v)

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287.143(f)(2)(i)(A)(1)(vii)	727.240(n)(1)(E)(vii)
267.143(f)(2)(i)(A)(2)	727.240(n)(1)(A)(ii)
267.143(f)(2)(i)(B)	727.240(n)(1)(B)
267.143(f)(2)(i)(C)	727.240(n)(1)(C)
267.143(f)(2)(i)(D)	727.240(n)(1)(D)
267.143(f)(2)(ii)	727.240(n)(2)
267.143(f)(2)(iii)	727.240(n)(3)
267.143(f)(2)(iv)	727.240(n)(4)
267.143(f)(2)(iv)(A)	727.240(n)(4)(A)
267.143(f)(2)(iv)(B)	727.240(n)(4)(B)
267.143(f)(2)(v)	727.240(n)(5)
267.143(f)(2)(v)(A)	727.240(n)(5)(A)
267.143(f)(2)(v)(B)	727.240(n)(5)(B)
267.143(f)(2)(vi)	727.240(n)(6)
267.143(f)(3)	727.240(d)(6)(C)
267.143(f)(3)	727.240(o)
267.143(f)(3)(i)	727.240(o)(1)
267.143(f)(3)(i)(A)	727.240(o)(1)(A)
267.143(f)(3)(i)(B)	727.240(o)(1)(B)
267.143(f)(3)(ii)	727.240(o)(2)
267.143(f)(3)(iii)	727.240(o)(3)
267.144 (Reserved)	727.240(e)
267.145 (Reserved)	727.240(f)
267.146 (Reserved)	727.240(g)
267.147	727.240(h)
267.147(f)(2)	727.240(h)(6)(B)
267.147(f)(2)	727.240(p)
267.147(f)(2)(i)	727.240(p)(1)
267.147(f)(2)(i)(A)	727.240(p)(1)(A)
267.147(f)(2)(i)(B)	727.240(p)(1)(B)
267.147(f)(2)(i)(C)	727.240(p)(1)(C)
267.147(f)(2)(ii)	727.240(p)(2)
267.147(f)(2)(iii)	727.240(p)(3)
267.147(f)(2)(iv)	727.240(p)(4)
267.147(f)(2)(iv)(A)	727.240(p)(4)(A)
267.147(f)(2)(iv)(B)	727.240(p)(4)(B)
267.147(f)(2)(v)	727.240(p)(5)
267.147(f)(2)(v)(A)	727.240(p)(5)(A)
267.147(f)(2)(v)(B)	727.240(p)(5)(B)

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267.147(f)(2)(vi)	727.240(p)(6)
267.147(g)(2)	727.240(h)(7)(B)
267.147(g)(2)	727.240(q)
267.147(g)(2)(i)	727.240(q)(1)
267.147(g)(2)(ii)	727.240(q)(2)
267.147(g)(2)(ii)(A)	727.240(q)(2)(A)
267.147(g)(2)(ii)(B)	727.240(q)(2)(B)
267.148	727.240(i)
267.149 (Reserved)	727.240(j)
267.150	727.240(k)
267.151	727.240(l)
267.151(a)	727.240(l)(1)
267.151(a)	Appendix A, Illustration A
267.151(b)	727.240(l)(2)
267.151(b)	Appendix A, Illustration B
Subpart I of Part 267	727.270
267.170	727.270(a)
267.171	727.270(b)
267.172	727.270(c)
267.173	727.270(d)
267.174	727.270(e)
267.175	727.270(f)
267.176	727.270(g)
267.177	727.270(h)
Subpart J of Part 267	727.290
267.190	727.290(a)
267.191	727.290(b)
267.192	727.290(c)
267.193	727.290(d)
267.194	727.290(e)
267.195	727.290(f)
267.196	727.290(g)
267.197	727.290(h)
267.198	727.290(i)
267.199	727.290(j)
267.200	727.290(k)
267.201	727.290(l)
267.202	727.290(m)
267.203	727.290(n)

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267.204	727.290(o)
Subpart K of Part 267 (Reserved)	None
Subpart L of Part 267 (Reserved)	None
Subpart M of Part 267 (Reserved)	None
Subpart N of Part 267 (Reserved)	None
Subpart O of Part 267 (Reserved)	None
Subpart P of Part 267 (Reserved)	None
Subpart Q of Part 267 (Reserved)	None
Subpart R of Part 267 (Reserved)	None
Subpart S of Part 267 (Reserved)	None
Subpart T of Part 267 (Reserved)	None
Subpart U of Part 267 (Reserved)	None
Subpart V of Part 267 (Reserved)	None
Subpart W of Part 267 (Reserved)	None
Subpart X of Part 267 (Reserved)	None
Subpart Y of Part 267 (Reserved)	None
Subpart Z of Part 267 (Reserved)	None
Subpart AA of Part 267 (Reserved)	None
Subpart BB of Part 267 (Reserved)	None
Subpart CC of Part 267 (Reserved)	None
Subpart DD of Part 267	727.900
267.1100	727.900(a)
267.1101	727.900(b)
267.1102	727.900(c)
267.1103	727.900(d)
267.1104	727.900(e)
267.1105	727.900(f)
267.1106	727.900(g)
267.1107	727.900(h)
267.1108	727.900(i)

40 CFR Provision	35 Ill. Adm. Code Provision
270.67	703.238
Subpart J of Part	Subpart J of Part
270.250	703.350(a)
270.255	703.350(b)
270.260	703.350(c)
270.270	703.351(a)
270.275	703.351(b)

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270.280	703.351(c)
270.290	703.352(a)
270.300	703.352(b)
270.305	703.352(c)
270.310	703.352(d)
270.315	703.352(e)
270.320	703.353

BOARD NOTE: The Board added Appendix B, Table A for the convenience of USEPA, the Agency, and the regulated community. It is not directly derived from any federal provision. It is intended not to have any substantive effect on implementation of the RCRA Standardized Permit rules.

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Section 727.APPENDIX B Correlation of State and Federal Provisions**Section 727.TABLE B Correlation of State RCRA Standardized Permit Provisions to Federal Provisions**

The following table sets forth the correlation of the State RCRA Standardized Permit provisions with the federal regulations. Where the structure of a State provision exactly parallels the corresponding federal provision from which it was derived, no expanded listing of the subsections appears. Where it was necessary to move or restructure the material from the federal regulations, a detailed listing of the location of each subsection appears.

35 Ill. Adm. Code Provision	40 CFR Provision
703.238	270.67
Subpart J of Part	Subpart J of Part
703.350(a)	270.250
703.350(b)	270.255
703.350(c)	270.260
703.351(a)	270.270
703.351(b)	270.275
703.351(c)	270.280
703.352(a)	270.290
703.352(b)	270.300
703.352(c)	270.305
703.352(d)	270.310
703.352(e)	270.315
703.353	270.320

35 Ill. Adm. Code Provision	40 CFR Provision
Subpart G of Part 705	Subpart G of Part 124
705.300(a)	124.200
705.300(b)	124.201
705.301(a)	124.202
705.301(b)	124.203
705.302(a)	124.204
705.302(b)	124.205
705.302(c)	124.206
705.303(a)	124.207
705.303(b)	124.208
705.303(c)	124.209

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705.303(d)	124.210
705.304(a)	124.211
705.304(b)	124.212
705.304(c)	124.213
705.304(d)	124.214

35 Ill. Adm. Code Provision	40 CFR Provision
727.100	Subpart A of Part 267
727.100(a)	267.1
727.100(b)	267.2
727.100(c)	267.3
727.110	Subpart B of Part 267
727.110(a)	267.10
727.110(b)	267.11
727.110(c)	267.12
727.110(d)	267.13
727.110(e)	267.14
727.110(f)	267.15
727.110(g)	267.16
727.110(h)	267.17
727.110(i)	267.18
727.130	Subpart C of Part 267
727.130(a)	267.30
727.130(b)	267.31
727.130(c)	267.32
727.130(d)	267.33
727.130(e)	267.34
727.130(f)	267.35
727.150	Subpart D of Part 267
727.150(a)	267.50
727.150(b)	267.51
727.150(c)	267.52
727.150(d)	267.53
727.150(e)	267.54
727.150(f)	267.55
727.150(g)	267.56
727.150(h)	267.57
727.150(i)	267.58
727.170	Subpart E of Part 267

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727.170(a)	267.70
727.170(b)	267.71
727.170(c)	267.72
727.170(d)	267.73
727.170(e)	267.74
727.170(f)	267.75
727.170(g)	267.76
727.190	Subpart F of Part 267
727.190(a)	267.90
727.190(b)	267.91 (Reserved)
727.190(c)	267.92 (Reserved)
727.190(d)	267.93 (Reserved)
727.190(e)	267.94 (Reserved)
727.190(f)	267.95 (Reserved)
727.190(g)	267.96 (Reserved)
727.190(h)	267.97 (Reserved)
727.190(i)	267.98 (Reserved)
727.190(j)	267.99 (Reserved)
727.190(k)	267.100 (Reserved)
727.190(l)	267.101
727.210	Subpart G of Part 267
727.210(a)	267.110
727.210(b)	267.111
727.210(c)	267.112
727.210(d)	267.113
727.210(e)	267.114 (Reserved)
727.210(f)	267.115
727.210(g)	267.116
727.210(h)	267.117
727.240	Subpart H of Part 267
727.240(a)	267.140
727.240(b)	267.141
727.240(c)	267.142
727.240(d)	267.143
727.240(d)(6)(A)	267.143(f)(1)
727.240(d)(6)(B)	267.143(f)(2)
727.240(e)	267.144 (Reserved)
727.240(f)	267.145 (Reserved)
727.240(g)	267.146 (Reserved)

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727.240(h)	267.147
727.240(h)(6)(B)	267.147(f)(2)
727.240(h)(7)(B)	267.147(g)(2)
727.240(i)	267.148
727.240(j)	267.149 (Reserved)
727.240(k)	267.150
727.240(l)	267.151
727.240(l)(1)	267.151(a)
727.240(l)(2)	267.151(b)
727.240(m)	267.143(f)(1)
727.240(m)(1)	267.143(f)(1)(i)
727.240(m)(1)(A)	267.143(f)(1)(i)(A)
727.240(m)(1)(B)	267.143(f)(1)(i)(B)
727.240(m)(1)(C)	267.143(f)(1)(i)(C)
727.240(m)(2)	267.143(f)(1)(ii)
727.240(m)(2)(A)	267.143(f)(1)(ii)(A)
727.240(m)(2)(B)	267.143(f)(1)(ii)(B)
727.240(m)(3)	267.143(f)(1)(iii)
727.240(n)	267.143(f)(2)
727.240(n)(1)	267.143(f)(2)(i)
727.240(n)(1)(A)	267.143(f)(2)(i)(A)
727.240(n)(1)(A)(i)	267.143(f)(2)(i)(A)(I)
727.240(n)(1)(A)(ii)	267.143(f)(2)(i)(A)(2)
727.240(n)(1)(B)	267.143(f)(2)(i)(B)
727.240(n)(1)(C)	267.143(f)(2)(i)(C)
727.240(n)(1)(D)	267.143(f)(2)(i)(D)
727.240(n)(1)(E)	267.143(f)(2)(i)(A)(I)
727.240(n)(1)(E)(i)	267.143(f)(2)(i)(A)(I)(i)
727.240(n)(1)(E)(ii)	267.143(f)(2)(i)(A)(I)(ii)
727.240(n)(1)(E)(iii)	267.143(f)(2)(i)(A)(I)(iii)
727.240(n)(1)(E)(iv)	267.143(f)(2)(i)(A)(I)(iv)
727.240(n)(1)(E)(v)	267.143(f)(2)(i)(A)(I)(v)
727.240(n)(1)(E)(vi)	267.143(f)(2)(i)(A)(I)(vi)
727.240(n)(2)	267.143(f)(2)(ii)
727.240(n)(3)	267.143(f)(2)(iii)
727.240(n)(4)	267.143(f)(2)(iv)
727.240(n)(4)(A)	267.143(f)(2)(iv)(A)
727.240(n)(4)(B)	267.143(f)(2)(iv)(B)
727.240(n)(5)	267.143(f)(2)(v)

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727.240(n)(5)(A)	267.143(f)(2)(v)(A)
727.240(n)(5)(B)	267.143(f)(2)(v)(B)
727.240(n)(6)	267.143(f)(2)(vi)
727.240(o)	267.143(f)(3)
727.240(o)(1)	267.143(f)(3)(i)
727.240(o)(1)(A)	267.143(f)(3)(i)(A)
727.240(o)(1)(B)	267.143(f)(3)(i)(B)
727.240(o)(2)	267.143(f)(3)(ii)
727.240(o)(3)	267.143(f)(3)(iii)
727.240(p)	267.147(f)(2)
727.240(p)(1)	267.147(f)(2)(i)
727.240(p)(1)(A)	267.147(f)(2)(i)(A)
727.240(p)(1)(B)	267.147(f)(2)(i)(B)
727.240(p)(1)(C)	267.147(f)(2)(i)(C)
727.240(p)(2)	267.147(f)(2)(ii)
727.240(p)(3)	267.147(f)(2)(iii)
727.240(p)(4)	267.147(f)(2)(iv)
727.240(p)(4)(A)	267.147(f)(2)(iv)(A)
727.240(p)(4)(B)	267.147(f)(2)(iv)(B)
727.240(p)(5)	267.147(f)(2)(v)
727.240(p)(5)(A)	267.147(f)(2)(v)(A)
727.240(p)(5)(B)	267.147(f)(2)(v)(B)
727.240(p)(6)	267.147(f)(2)(vi)
727.240(q)	267.147(g)(2)
727.240(q)(1)	267.147(g)(2)(i)
727.240(q)(2)	267.147(g)(2)(ii)
727.240(q)(2)(A)	267.147(g)(2)(ii)(A)
727.240(q)(2)(B)	267.147(g)(2)(ii)(B)
727.270	Subpart I of Part 267
727.270(a)	267.170
727.270(b)	267.171
727.270(c)	267.172
727.270(d)	267.173
727.270(e)	267.174
727.270(f)	267.175
727.270(g)	267.176
727.270(h)	267.177
727.290	Subpart J of Part 267
727.290(a)	267.190

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727.290(b)	267.191
727.290(c)	267.192
727.290(d)	267.193
727.290(e)	267.194
727.290(f)	267.195
727.290(g)	267.196
727.290(h)	267.197
727.290(i)	267.198
727.290(j)	267.199
727.290(k)	267.200
727.290(l)	267.201
727.290(m)	267.202
727.290(n)	267.203
727.290(o)	267.204
727.900	Subpart DD of Part 267
727.900(a)	267.1100
727.900(b)	267.1101
727.900(c)	267.1102
727.900(d)	267.1103
727.900(e)	267.1104
727.900(f)	267.1105
727.900(g)	267.1106
727.900(h)	267.1107
727.900(i)	267.1108
Appendix A, Illustration A	267.151(a)
Appendix A, Illustration B	267.151(b)

BOARD NOTE: The Board added Appendix B, Table B for the convenience of USEPA, the Agency, and the regulated community. It is not directly derived from any federal provision. It is intended not to have any substantive effect on implementation of the RCRA Standardized Permit rules.

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- 1) Heading of the Part: Land Disposal Restrictions
- 2) Code Citation: 35 Ill. Adm. Code 728
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
728.101	Amend
728.106	Amend
728.142	Amend
728.TABLE F	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7488; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to this rule making? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not

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apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will these rulemakings replace any emergency rulemakings currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 728 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 730, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 728 implement segments of the 8/5/05 and 10/13/05 federal amendments. The amendments incorporate elements of the Mercury-Containing Device Rule into the RCRA Subtitle C hazardous waste land disposal restrictions. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

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- 16) Information and questions regarding this adopted rulemaking shall be directed to:
Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 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](#) ~~under~~ 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

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	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
728.APPENDIX I	EP Toxicity Test Method and Structural Integrity Test

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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 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-

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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.

Section 728.101 Purpose, Scope, and Applicability

- a) This Part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.
- b) Except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721, the requirements of this Part apply to persons that generate or transport hazardous waste and to owners and operators of hazardous waste treatment, storage, and disposal facilities.
- c) Restricted wastes may continue to be land disposed as follows:
 - 1) Where a person has been granted an extension to the effective date of a prohibition ~~pursuant to~~ Subpart C of this Part or pursuant to Section 728.105, with respect to those wastes covered by the extension;
 - 2) Where a person has been granted an exemption from a prohibition pursuant to a petition ~~pursuant to~~ Section 728.106, with respect to those wastes and units covered by the petition;
 - 3) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited ~~pursuant to~~ this Part is not prohibited if the following is true of the waste:
 - A) The waste is disposed into a ~~non-hazardous~~ ~~nonhazardous~~ or hazardous waste injection well, as defined in 35 Ill. Adm. Code 704.106(a); and
 - B) The waste does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.
 - 4) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited ~~pursuant to~~ this Part is not prohibited if the waste meets any of the following criteria, unless the waste is subject to a specified method of treatment other than

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DEACT in Section 728.140 or is D003 reactive cyanide:

- A) Any of the following is true of either treatment or management of the waste:
 - i) The waste is managed in a treatment system that subsequently discharges to waters of the United States pursuant to a permit issued pursuant to ~~under~~ 35 Ill. Adm. Code 309;
 - ii) The waste is treated for purposes of the pretreatment requirements of 35 Ill. Adm. Code 307 and 310; or
 - iii) The waste is managed in a zero discharge system engaged in Clean Water Act (CWA)-equivalent treatment, as defined in Section 728.137(a); and
 - B) The waste no longer exhibits a prohibited characteristic of hazardous waste at the point of land disposal (i.e., placement in a surface impoundment).
- d) This Part does not affect the availability of a waiver pursuant to ~~under~~ Section 121(d)(4) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9621(d)(4)).
- e) The following hazardous wastes are not subject to any provision of this Part:
- 1) Waste generated by small quantity generators of less than 100 kg of non-acute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in 35 Ill. Adm. Code 721.105;
 - 2) Waste pesticide that a farmer disposes of pursuant to 35 Ill. Adm. Code 722.170;
 - 3) Waste identified or listed as hazardous after November 8, 1984, for which USEPA has not promulgated a land disposal prohibition or treatment standard;
 - 4) De minimis losses of waste that exhibits a characteristic of hazardous waste to wastewaters are not considered to be prohibited waste and are

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defined as losses from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory waste that does not exceed one percent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average concentration not exceeding one part per million (ppm) in the headworks of the facility's wastewater treatment or pretreatment facility; or

- 5) Land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012 through D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation pursuant to~~under~~ the CWA (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headworks does not exceed one percent or that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headworks.
- f) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) is exempt from Sections 728.107 and 728.150 for the hazardous wastes listed below. Such a handler or transporter is subject to regulation pursuant to~~under~~ 35 Ill. Adm. Code 733.
 - 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 - 3) Mercury-containing equipment, Thermostats, as described in 35 Ill. Adm. Code 733.104; and
 - 4) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~
 - 5) ~~Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.~~

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~~BOARD NOTE: Subsection (f)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

- g) This Part is cumulative with the land disposal restrictions of 35 Ill. Adm. Code 729. The Environmental Protection Agency (Agency) must not issue a wastestream authorization pursuant to 35 Ill. Adm. Code 709 or Section 22.6 or 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 or 39(h)] unless the waste meets the requirements of this Part as well as 35 Ill. Adm. Code 729.
- h) **Electronic reporting.** The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (h) is derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 31 Ill. Reg. 1254, effective December 20, 2006)

Section 728.106 Petitions to Allow Land Disposal of a Waste Prohibited Pursuant to ~~under~~ Subpart C

- a) Any person seeking an exemption from a prohibition pursuant to ~~under~~ Subpart C for the disposal of a restricted hazardous waste in a particular unit or units must submit a petition to the Board demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration must include the following components:
- 1) An identification of the specific waste and the specific unit for which the demonstration will be made;
 - 2) A waste analysis to describe fully the chemical and physical characteristics of the subject waste;
 - 3) A comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality;
 - 4) A monitoring plan that detects migration at the earliest practical time;

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- 5) Sufficient information to assure the Agency that the owner or operator of a land disposal unit receiving restricted wastes will comply with other applicable federal, state, and local laws;
 - 6) Whether the facility is in interim status, or, if a RCRA permit has been issued, the term of the permit.
- b) The demonstration referred to in subsection (a) of this Section must meet the following criteria:
- 1) All waste and environmental sampling, test and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;
 - 2) All sampling, testing and estimation techniques for chemical and physical properties of the waste and all environmental parameters must conform with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, and with "Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," USEPA publication number EPA-530/SW-87-011, each incorporated by reference in 35 Ill. Adm. Code 720.111.
 - 3) Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;
 - 4) A quality assurance and quality control plan that addresses all aspects of the demonstration and conforms with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, and with "Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," USEPA publication number EPA-530/SW-87-011; and
 - 5) An analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including, but not limited to, earthquakes, floods, severe storm events, droughts, or other natural phenomena.
- c) Each petition referred to in subsection (a) of this Section must include the

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following:

- 1) A monitoring plan that describes the monitoring program installed at or around the unit to verify continued compliance with the conditions of the adjusted standard. This monitoring plan must provide information on the monitoring of the unit or the environment around the unit. The following specific information must be included in the plan:
 - A) The media monitored in the cases where monitoring of the environment around the unit is required;
 - B) The type of monitoring conducted at the unit, in the cases where monitoring of the unit is required;
 - C) The location of the monitoring stations;
 - D) The monitoring interval (frequency of monitoring at each station);
 - E) The specific hazardous constituents to be monitored;
 - F) The implementation schedule for the monitoring program;
 - G) The equipment used at the monitoring stations;
 - H) The sampling and analytical techniques employed; and
 - I) The data recording and reporting procedures.
- 2) Where applicable, the monitoring program described in subsection (c)(1) of this Section must be in place for a period of time specified by the Board, as part of its approval of the petition, prior to receipt of prohibited waste at the unit.
- 3) The monitoring data collected according to the monitoring plan specified ~~pursuant to~~ subsection (c)(1) of this Section must be sent to the Agency according to a format and schedule specified and approved in the monitoring plan.
- 4) A copy of the monitoring data collected under the monitoring plan specified ~~pursuant to~~ subsection (c)(1) of this Section must be kept

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on-site at the facility in the operating record.

- 5) The monitoring program specified ~~pursuant to~~ subsection (c)(1) of this Section must meet the following criteria:
 - A) All sampling, testing, and analytical data must be approved by the Board and must provide data that is accurate and reproducible;
 - B) All estimation and monitoring techniques must be approved by the Board; and
 - C) A quality assurance and quality control plan addressing all aspects of the monitoring program must be provided to and approved by the Board.
- d) Each petition must be submitted to the Board as provided in Subpart D of 35 Ill. Adm. Code 104.
- e) After a petition has been approved, the owner or operator must report any changes in conditions at the unit or the environment around the unit that significantly depart from the conditions described in the petition and affect the potential for migration of hazardous constituents from the units as follows:
 - 1) If the owner or operator plans to make changes to the unit design, construction, or operation, the owner or operator must do the following at least 90 days prior to making the change:
 - A) File a petition for modification of or a new petition to amend an adjusted standard with the Board reflecting the changes; or
 - B) Demonstrate to the Agency that the change can be made consistent with the conditions of the existing adjusted standard.
 - 2) If the owner or operator discovers that a condition at the site that was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Agency within 10 days after discovering the change. The Agency must determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance, a petition for modification of or a new petition for an adjusted standard.

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- f) If there is migration of hazardous constituents from the unit, as determined by the owner or operator, the owner or operator must do the following:
- 1) It must immediately suspend receipt of prohibited waste at the unit, and
 - 2) It must notify the Agency, in writing, within 10 days after the determination that a release has occurred.
 - 3) Following receipt of the notification, the Agency must, within 60 days after receiving notification:
 - A) It must determine whether the owner or operator can continue to receive prohibited waste in the unit under the conditions of the adjusted standard.
 - B) If modification or vacation of the adjusted standard is necessary, it must file a motion to modify or vacate the adjusted standard with the Board.
 - C) It must determine whether further examination of any migration is required pursuant to~~under~~ the applicable provisions of 35 Ill. Adm. Code 724 or 725.
- g) Each petition must include the following statement signed by the petitioner or an authorized representative:
- I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information. I believe that 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.
- h) After receiving a petition, the Board may request any additional information that may be required to evaluate the demonstration.
- i) If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to

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any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit.

- j) The Board will give public notice and provide an opportunity for public comment, as provided in Subpart D of 35 Ill. Adm. Code 104. Notice of a final decision on a petition will be published in the Environmental Register.
- k) The term of a petition granted ~~pursuant to~~ this Section will be no longer than the term of the RCRA permit if the disposal unit is operating ~~pursuant to~~ a RCRA permit, or up to a maximum of 10 years from the date of approval provided ~~pursuant to~~ subsection (g) of this Section if the unit is operating under interim status. In either case, the term of the granted petition expires upon the termination or denial of a RCRA permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached.
- l) Prior to the Board's decision, the applicant must comply with all restrictions on land disposal ~~pursuant to~~ this Part once the effective date for the waste has been reached.
- m) The petition granted by the Board does not relieve the petitioner of responsibilities in the management of hazardous waste ~~pursuant to~~ 35 Ill. Adm. Code 702, 703, and 720 through ~~728, and 738~~~~726~~.
- n) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm are not eligible for an adjusted standard ~~pursuant to~~ this Section.

(Source: Amended at 31 Ill. Reg. 1254, effective December 20, 2006)

SUBPART D: TREATMENT STANDARDS

Section 728.142 Treatment Standards Expressed as Specified Technologies

- a) The following wastes listed in Table T of this Part, "Treatment Standards for Hazardous Wastes," for which standards are expressed as a treatment method rather than as a concentration level, must be treated using the technology or technologies specified in Table C of this Part.
 - 1) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm but less than 500 ppm must be incinerated in

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accordance with the technical requirements of 40 CFR 761.70 (Incineration), incorporated by reference in 35 Ill. Adm. Code 720.111(b), or burned in high efficiency boilers in accordance with the technical requirements of 40 CFR 761.60 (Disposal Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b). Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm must be incinerated in accordance with the technical requirements of 40 CFR 761.70. Thermal treatment in accordance with this Section must be in compliance with applicable regulations in 35 Ill. Adm. Code 724, 725, and 726.

- 2) Nonliquid hazardous wastes containing halogenated organic compounds (HOCs) in total concentrations greater than or equal to 1,000mg/kg and liquid HOC-containing wastes that are prohibited ~~pursuant to~~ Section 728.132(e)(1) must be incinerated in accordance with the requirements of Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725. These treatment standards do not apply where the waste is subject to a treatment standard codified in Subpart C of this Part for a specific HOC (such as a hazardous waste chlorinated solvent for which a treatment standard is established ~~pursuant to~~ Section 728.141(a)).
- 3) A mixture consisting of wastewater, the discharge of which is subject to regulation ~~pursuant to~~ 35 Ill. Adm. Code 309 or 310, and de minimis losses of materials from manufacturing operations in which these materials are used as raw materials or are produced as products in the manufacturing process that meet the criteria of the D001 ignitable liquids containing greater than 10 percent total organic constituents (TOC) subcategory are subject to the DEACT treatment standard described in Table C of this Part. For purposes of this subsection (a)(3), "de minimis losses" include the following:
 - A) Those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, or leaks from pipes, valves, or other devices used to transfer materials);
 - B) Minor leaks from process equipment, storage tanks, or containers;
 - C) Leaks from well-maintained pump packings and seals;

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- D) Sample purgings; and
 - E) Relief device discharges.
- b) Any person may submit an application to the Agency demonstrating that an alternative treatment method can achieve a level of performance equivalent to that achievable by methods specified in subsections (a), (c), and (d) of this Section for wastes or specified in Table F of this Part for hazardous debris. The applicant must submit information demonstrating that the applicant's treatment method is in compliance with federal and state requirements, including this Part; 35 Ill. Adm. Code 709, 724, 725, 726, and 729; and Sections 22.6 and 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 and 39(h)] and that the treatment method ~~adequately protects~~ ~~is protective of~~ human health and the environment. On the basis of such information and any other available information, the Agency must approve the use of the alternative treatment method if the Agency finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in subsections (a), (c), and (d) of this Section and in Table F of this Part, for hazardous debris. Any approval must be stated in writing and may contain such provisions and conditions as the Agency determines to be appropriate. The person to whom such approval is issued must comply with all limitations contained in such determination.
- c) As an alternative to the otherwise applicable treatment standards of Subpart D of this Part, lab packs are eligible for land disposal provided the following requirements are met:
- 1) The lab packs comply with the applicable provisions of 35 Ill. Adm. Code 724.416 and 725.416;

BOARD NOTE: 35 Ill. Adm. Code 729.301 and 729.312 include additional restrictions on the use of lab packs.
 - 2) The lab pack does not contain any of the wastes listed in Appendix D of this Part;
 - 3) The lab packs are incinerated in accordance with the requirements of Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725; and
 - 4) Any incinerator residues from lab packs containing D004, D005, D006,

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D007, D008, D010, and D011 are treated in compliance with the applicable treatment standards specified for such wastes in Subpart D of this Part.

- d) Radioactive hazardous mixed wastes are subject to the treatment standards in Section 728.140 and Table T of this Part. Where treatment standards are specified for radioactive mixed wastes in Table T of this Part, "Table of Treatment Standards," those treatment standards will govern. Where there is no specific treatment standard for radioactive mixed waste, the treatment standard for the hazardous waste (as designated by USEPA hazardous waste code) applies. Hazardous debris containing radioactive waste is subject to the treatment standards specified in Section 728.145.

(Source: Amended at 31 Ill. Reg. 1254, effective December 20, 2006)

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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

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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~~ under 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.

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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 contaminants or contaminated	Same as above	Same as above

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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.
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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 (1/2 inch) in one dimension (i.e., thickness limit, ² except that this thickness limit may be waived under an "Equivalent Technology" approval pursuant to <u>under</u> 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 <u>pursuant to</u> under 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 phase and be flushed away from	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.

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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 surface pores and to remove the contaminants from the heating

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

All Debris: Metals other than mercury.

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chamber in a gaseous exhaust gas.³

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 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 ~~under~~ 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: Chemical or electrolytic

All Debris: Obtain an "Equivalent Technology"

All Debris: Metal contaminants.

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<p>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.</p>	<p>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</p>	
<p>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</p>	<p>Same as above</p>	<p>Same as above.</p>
<p>3. Thermal Destruction: Treatment in an incinerator operating in accordance with Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725; a boiler or</p>	<p>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-</p>	<p>Brick, Concrete, Glass, Metal, Pavement, Rock, Metal: Metals other than mercury, except that there are no metal restrictions for vitrification. Debris contaminated with a</p>

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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.

specific treatment standards for organic compounds in the waste contaminating the debris.

dioxin-listed waste.³ Obtain an "Equivalent Technology" approval ~~pursuant to~~ under Section 728.142(b),⁴ except that this requirement does not apply to vitrification.

C. Immobilization
Technologies:

- | | | |
|---|--|--------------|
| <p>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.</p> | <p>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).</p> | <p>None.</p> |
| <p>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 strength, or to reduce the leachability of the hazardous constituents.²</p> | <p>Leachability of the hazardous contaminants must be reduced.</p> | <p>None.</p> |

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- | | | |
|---|--|-------|
| 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 31 Ill. Reg. 1254, effective December 20, 2006)

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- 1) Heading of the Part: Underground Injection Control Operating Requirements
- 2) Code Citation: 35 Ill. Adm. Code 730
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
730.101	Amend
730.102	Amend
730.103	Amend
730.104	Amend
730.105	Amend
730.106	Amend
730.107	Amend
730.108	Amend
730.109	Amend
730.110	Amend
730.111	Amend
730.112	Amend
730.113	Amend
730.114	Amend
730.121	Amend
730.131	Amend
730.132	Amend
730.133	Amend
730.134	Amend
730.151	Amend
730.161	Amend
730.162	Amend
730.163	Amend
730.164	Amend
730.165	Amend
730.166	Amend
730.167	Amend
730.168	Amend
730.169	Amend
730.170	Amend
730.171	Amend
730.172	Amend
730.173	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27

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- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The amendments include references to incorporations by reference that are amended in this proceeding. Most of the amendments to the incorporations relating to Part 730, however, are all corrective or stylistic, and none of those changes the incorporation in any substantive way. Other amendments add a reference to incorporation of various federal regulations relating to Part 730 that were formerly referenced without incorporation, or the amendments narrow the reference to more specific segments of the incorporated federal regulation.
- 8) Statement of Availability: The adopted rulemaking, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7515; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does

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not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 730 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 733, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 730 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations. This rulemaking includes a number of corrective and stylistic amendments to the base text of Part 730 that are not directly derived from the current federal amendments.

Tables appear in the Board's 11/16/06 opinion and order 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.

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Persons interested in the details of those corrections and amendments should refer to the 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's opinion and order of 11/16/06, 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:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND
UNDERGROUND STORAGE TANK PROGRAMSPART 730
UNDERGROUND INJECTION CONTROL OPERATING REQUIREMENTS

SUBPART A: GENERAL

Section

730.101	Applicability, Scope, and Effective Date	
730.102	Laws Authorizing Regulations	
730.103	Definitions	
730.104	Criteria for Exempted Aquifers	
730.105	Classification of Injection Wells	
730.106	Area of Review	
730.107	Corrective Action	
730.108	Mechanical Integrity	
730.109	Criteria for Establishing Permitting Priorities	
730.110	Plugging and Abandoning Wells	

SUBPART B: CRITERIA AND STANDARDS APPLICABLE
TO CLASS I NON-HAZARDOUS WASTE INJECTION WELLS

Section

730.111	Applicability	
730.112	Construction Requirements	
730.113	Operating, Monitoring, and Reporting Requirements	
730.114	Information to be Considered by the Agency	

SUBPART C: CRITERIA AND STANDARDS APPLICABLE
TO CLASS II INJECTION WELLS

Section

730.121	Adoption of Criteria and Standards Applicable to Class II <u>Injection</u> Wells by the Illinois Department of Mines and Minerals	
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SUBPART D: CRITERIA AND STANDARDS APPLICABLE

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TO CLASS III INJECTION WELLS

Section

- 730.131 Applicability
- 730.132 Construction Requirements
- 730.133 Operating, Monitoring, and Reporting Requirements
- 730.134 Information to be Considered by the Agency

SUBPART F: CRITERIA AND STANDARDS APPLICABLE
TO CLASS V INJECTION WELLS

Section

- 730.151 Applicability
- 730.152 Inventory and Assessment (Repealed)

SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO
CLASS I HAZARDOUS WASTE INJECTION WELLS

Section

- 730.161 Applicability and Definitions
- 730.162 Minimum Criteria for Siting
- 730.163 Area of Review
- 730.164 Corrective Action for Wells in the Area of Review
- 730.165 Construction Requirements
- 730.166 Logging, Sampling, and Testing Prior to New Well Operation
- 730.167 Operating Requirements
- 730.168 Testing and Monitoring Requirements
- 730.169 Reporting Requirements
- 730.170 Information to be Evaluated
- 730.171 Closure
- 730.172 Post-Closure Care
- 730.173 Financial Responsibility for Post-Closure Care

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

SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19 at 7 Ill. Reg. 14426, effective March 3, 1984; recodified at 10 Ill. Reg. 14174; amended in R89-2 at 14 Ill. Reg. 3130, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11959, effective July 9, 1990; amended in R93-6 at 17 Ill. Reg. 15646, effective September 14, 1993;

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amended in R94-5 at 18 Ill. Reg. 18391, effective December 20, 1994; amended in R95-4 at 19 Ill. Reg. 10047, effective June 27, 1995; amended in R00-11/R01-1 at 24 Ill. Reg. 18680, effective December 7, 2000; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1281, effective December 20, 2006.

SUBPART A: GENERAL

Section 730.101 Applicability, Scope, and Effective Date

- a) This Part sets forth technical criteria and standards for the Underground Injection Control (UIC) Program. This Part ~~must~~^{should} be read in conjunction with 35 Ill. Adm. Code 702, 704, and 705, which also apply to the UIC program. 35 Ill. Adm. Code 702 and 704 prescribe the regulatory requirements for the UIC permit program. 35 Ill. Adm. Code 704 further outlines hazardous waste management requirements and sets forth the financial assurance requirements applicable to Class I hazardous waste injection wells and requirements applicable to certain types of Class V injection wells. 35 Ill. Adm. Code 705 describes the procedures the ~~Illinois Environmental Protection~~ Agency (~~Agency~~) ~~must~~^{will} use for issuing UIC permits.
- b) On and after February 1, 1984, any underground injection ~~that~~^{which} is not authorized by rule or by permit is unlawful.
- c) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 3 and 145.11(a)(33), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.102 Laws Authorizing Regulations

The laws authorizing these regulations and all other UIC program regulations are included in the Environmental Protection Act [415 ILCS 5](Ill. Rev. Stat. 1979, ch. 111 1/2, par. 1001), as amended.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.103 Definitions

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The following definitions apply to the underground injection control program.

"Abandoned well" means a well whose use has been permanently discontinued or that is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

"Act" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580, as amended by P.L. 95-609, 42 USC 6901).

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

"Agency" means the Illinois Environmental Protection Agency.

"Application" means the Agency forms for applying for a permit, including any additions, revisions, or modifications to the forms. For RCRA, application also includes the information required by the Agency pursuant to ~~under~~ 35 Ill. Adm. Code 703.182-703.188 and 703.200 (contents of Part B of the RCRA application).

"Aquifer" means a geologic formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

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

"Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground or to prevent water, gas, or other fluid from entering or leaving the hole.

"Catastrophic collapse" means the sudden and utter failure of overlying "strata" caused by removal of underlying materials.

"Cementing" means the operation whereby a cement slurry is pumped into a

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drilled hole or forced behind the casing.

"Cesspool" means a "drywell" that receives untreated sanitary waste containing human excreta and which sometimes has an open bottom or perforated sides.

"Confining bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

"Confining zone" means a geologic formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

"Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

"Conventional mine" means an open pit or underground excavation for the production of minerals.

"Date of approval by USEPA of the Illinois UIC program" means February 1, 1984.

"Director" means the Director of the Illinois Environmental Protection Agency or the Administrator's designee.

"Disposal well" means a well used for the disposal of waste into a subsurface stratum.

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

"Effective date of the UIC program" means February 1, 1984.

"Environmental Protection Act" means the Environmental Protection Act [415 ILCS 5].

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

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

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702.105.

"Existing injection well" means an "injection well" other than a "new injection well."

"Experimental technology" means a technology that has not been proven feasible under the conditions in which it is being tested.

"Facility or activity" means any HWM facility, UIC injection well, or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the "State" RCRA or UIC program.

"Fault" means a surface or zone of rock fracture along which there has been displacement.

"Flow rate" means the volume per unit time of the flow of a gas or other fluid substance that emerges from an orifice, pump or turbine or which passes along a conduit or channel.

"Fluid" means material or substance that flows or moves, whether in a semisolid, liquid sludge, gas, or any other form or state.

"Formation" means a body of rock characterized by a degree of lithologic homogeneity that is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

"Formation fluid" means fluid present in a formation under natural conditions as opposed to introduced fluids, such as drilling mud.

"Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721.

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

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

"Hazardous waste management facility" or "HWM facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of

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several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).

"HWM facility" means Hazardous waste management facility.

"Illinois" means the State of Illinois.

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

"Injection well" means a well into which fluids are being injected.

"Injection zone" means a geologic formation, group of formations, or part of a formation receiving fluids through a well.

"Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under RCRA, UIC, or the Environmental Protection Act.

"Packer" means a device lowered into a well that can be expanded to produce a fluid-tight seal.

"Permit" means an authorization, license, or equivalent control document issued by the Agency to implement the requirements of this Part and 35 Ill. Adm. Code 702 through 705. Permit does not include RCRA interim status, ~~(Subpart C of 35 Ill. Adm. Code 703, Subpart C)~~, UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

"Plugging" means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

"Plugging record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration, and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations that are

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sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.

"Point of injection," for a Class V [injection](#) well, means the last accessible sampling point prior to waste fluids being released into the subsurface environment through the well. For example, the point of injection of a Class V septic system might be the distribution box – the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

"Pressure" means the total load or force per unit area acting on a surface.

"Project" means a group of wells in a single operation.

"Radioactive Waste" means any waste that contains radioactive material in concentrations ~~that which~~ exceed those listed in [Table II, column 2 in appendix B to 10 CFR 20 \(Water Effluent Concentrations\)](#), ~~Appendix B, Table II, Column 2,~~ incorporated by reference in 35 Ill. Adm. Code 720.111.

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (~~P.L. 94-580, as amended by P.L. 95-609,~~ 42 USC 6901 [et seq.](#)).

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

"SDWA" means the Safe Drinking Water Act (~~P.L. 95-523, as amended by P.L. 95-190,~~ 42 USC 300(f) [et seq.](#)).

"Septic system" means a well that is used to emplace sanitary waste below the surface and which is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

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"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Sole or principal source aquifer" means an aquifer that has been designated by the Administrator pursuant to Section 1424(a) or (e) of SDWA [\(42 USC 300h-3\(a\) or \(e\)\)](#).

"State" means the State of Illinois.

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

"Subsidence" means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure, removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

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

"Surface casing" means the first string of well casing to be installed in the well.

"Total dissolved solids" or "TDS" means the total dissolved (filterable) solids, as determined by use of the method specified in 40 CFR [136.3 \(Identification of Test Procedures; the method for filterable residue\)](#)~~136~~, incorporated by reference in 35 Ill. Adm. Code 720.111.

"UIC" means the Underground Injection Control program under Part C of the Safe Drinking Water Act [\(42 USC 300h through 300h-8\)](#), including the approved Illinois program.

"Underground injection" means a "well injection."

"Underground source of drinking water" or "USDW" means an aquifer or its portion of which the following is true:

It supplies any public water system; or

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

It currently supplies drinking water for human consumption; or

It contains less than 10,000 ~~mg/l~~ ~~mg/l~~ total dissolved solids; and

It is not an exempted "aquifer_":

"USDW" means underground source of drinking water.

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

"Well injection" means the subsurface emplacement of fluids through a well.

"Well monitoring" means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.

"Well plug" means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.

"Well stimulation" means several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected, thus making it possible for wastewater to move more readily into the formation, and includes surging, jetting, blasting, acidizing, and hydraulic fracturing.

BOARD NOTE: Derived from 40 CFR 146.3 ~~(2005)(1999), as amended at 64 Fed. Reg. 68573 (December 7, 1999).~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.104 Criteria for Exempted Aquifers

An aquifer or a portion thereof that meets the criteria for an "underground source of drinking water" in Section 730.103 may be determined by the Board ~~pursuant to~~ ~~under~~ 35 Ill. Adm. Code 704.103, 704.123, and 702.105 to be an "exempted aquifer" if it meets the ~~following~~ criteria of

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either subsections (a) and (b) or (a) and (c) of this Section.:

- a) It does not currently serve as a source of drinking water; and
- b) It cannot now and will not in the future serve as a source of drinking water because one or more of the following is true of the aquifer:
 - 1) It is mineral, hydrocarbon, or geothermal energy producing, or a permit applicant can demonstrate, as part of a permit application for a Class II or III injection well, that the aquifer contains minerals or hydrocarbons that are expected to be commercially producible considering their quantity and location;
 - 2) It is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;
 - 3) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
 - 4) It is located over a Class III injection well mining area subject to subsidence or catastrophic collapse; or
- c) The total dissolved solids content of the groundwater is more than 3,000 and less than 10,000 mg/l, mg/l and the aquifer is not reasonably expected to supply a public water system.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.105 Classification of Injection Wells

Injection wells are classified as follows:

- a) Class I injection wells. A Class I injection well is any of the following:
 - 1) A Class I hazardous waste injection well that is~~Wells~~ used by a generator~~generators~~ of hazardous waste or an owner~~owners~~ or operator~~operators~~ of a hazardous waste management facility~~facilities~~ to inject hazardous waste beneath the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.

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- 2) ~~An~~Other industrial ~~or~~and municipal disposal ~~well~~wells that ~~injects~~inject fluids beneath the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.
 - 3) ~~A radioactive~~Radioactive waste disposal ~~well~~wells that ~~injects~~inject fluids below the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.
- b) Class II injection wells. A Class II injection well is one ~~Wells~~ that injects any of the following types of ~~inject~~ fluids:
- 1) Fluids that ~~That~~ are brought to the surface in connection with conventional oil or natural gas production and which may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;
 - 2) Fluids that are used for ~~For~~ enhanced recovery of oil or natural gas; and
 - 3) Fluids that are used for ~~For~~ storage of hydrocarbons that are liquid at standard temperature and pressure.
- c) Class III injection wells. A Class III injection well is one ~~Wells~~ that injects fluid ~~inject~~ for extraction of minerals, including one used in any of the following activities:
- 1) Mining of sulfur by the Frasch process;
 - 2) In situ production of uranium or other metals. This category includes only in situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines, such as stopes leaching, is included in Class V; ~~or~~and
 - 3) Solution mining of salts or potash.
- BOARD NOTE: Class III injection well would ~~wells~~ include a well used for the recovery of geothermal energy to produce electric power, but ~~does~~do not include a well ~~wells~~ used in heating or aquaculture that ~~falls~~fall under Class V.
- d) Class IV injection wells. A Class IV injection well is any of the following:

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- 1) ~~A well~~Wells used by ~~a generator~~generators of hazardous waste or of radioactive waste, by ~~an owner~~owners or ~~operator~~operators of ~~a~~ hazardous waste management ~~facility~~facilities, or by ~~an owner~~owners or ~~operator~~operators of ~~a~~ radioactive waste disposal ~~site~~sites to dispose of hazardous waste or radioactive waste into a formation that contains an underground source of drinking water within 402 meters (one-quarter mile) of the well.
 - 2) ~~A well~~Wells used by ~~a generator~~generators of hazardous waste or of radioactive waste, by ~~an owner~~owners or ~~operator~~operators of ~~a~~ hazardous waste management ~~facility~~facilities, or by ~~an owner~~owners or ~~operator~~operators of ~~a~~ radioactive waste disposal ~~site~~sites to dispose of hazardous waste or radioactive waste above a formation that contains an underground source of drinking water within 402 meters (one-quarter mile) of the well.
 - 3) ~~A well~~Wells used by ~~a generator~~generators of hazardous waste or ~~an owner~~owners or ~~operator~~operators of ~~a~~ hazardous waste management ~~facility~~facilities to dispose of hazardous waste that cannot be classified ~~pursuant to~~under subsection (a)(1), (d)(1), or (d)(2) of this Section (e.g., wells used to dispose of hazardous wastes into or above a formation that contains an aquifer that has been exempted pursuant to Section 730.104).
- e) Class V injection wells. ~~A Class V injection well is any~~Injection wells not included in Class I, Class II, Class III, or Class IV. Specific types of Class V injection wells include the following:
- 1) Air conditioning return flow wells used to return the water used in a heat pump for heating or cooling to the supply aquifer;
 - 2) Cesspools, including multiple dwelling, community, or regional cesspools, or other devices that receive wastes that have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools or to non-residential cesspools that receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day;
 - 3) Cooling water return flow wells used to inject water previously used for cooling;

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- 4) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;
- 5) Dry wells used for the injection of wastes into a subsurface formation;
- 6) Recharge wells used to replenish the water in an aquifer;
- 7) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;
- 8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings, or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not;
- 9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, or to nonresidential septic system wells that are used solely for the disposal of sanitary waste and which have the capacity to serve fewer than 20 persons a day;
- 10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;
- 11) Radioactive waste disposal wells other than Class IV injection wells;
- 12) Injection wells associated with the recovery of geothermal energy for heating, aquaculture, or production of electric power;
- 13) Wells used for solution mining of conventional mines such as stopes leaching;
- 14) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts; and
- 15) Injection wells used in experimental technologies.

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(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.106 Area of Review

The area of review for each injection well or each field, project, or area in Illinois ~~must~~ be determined according to either subsection (a) or (b) ~~of this Section~~ below. The Agency may solicit input from the owners or operators of injection wells within Illinois as to which method is most appropriate for each geographic area or field.

- a) Zone of endangering influence.
 - 1) The zone of endangering influence ~~must~~ be the applicable of the following:
 - A) In the case of an application for a well permit ~~pursuant to~~ 35 Ill. Adm. Code 704.161, that area the radius of which is the lateral distance in which the pressures in the injection zone may cause the migration of the injection or formation fluid into an underground source of drinking water; or
 - B) In the case of an application for an area permit ~~pursuant to~~ 35 Ill. Adm. Code 704.162, the project area plus a circumscribing area the width of which is the lateral distance from the perimeter of the project area, in which the pressures in the injection zone may cause the migration of the injection or formation fluid into an underground source of drinking water.
 - 2) Computation of the zone of endangering influence may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified This equation illustrates one form that the mathematical model may take.

$$r = \sqrt{\frac{2.25 \frac{kHtKH}{S} x 10^x}{S x 10^x}}$$

where:

$$x = \frac{4 p KH (h_w - h_{bo} x S_b G_b)}{S}$$

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 2.3 Q

- r = Radius of endangering influence from injection well (length)
 k = Hydraulic conductivity of the injection zone (length/time)
 H = Thickness of the injection zone (length)
 t = Time of injection (time)
 S = Storage coefficient (dimensionless)
 Q = Injection rate (volume/time)
 h_{bo} = Observed original hydrostatic head of injection zone (length)
 measured from the base of the lowermost underground source
 of drinking water
 h_w = Hydrostatic head of underground source of drinking water
 (length) measured from the base of the lowest underground
 source of drinking water
 $S_p G_b$ = Specific gravity of fluid in the zone (dimensionless)
 P_i = 3.14159 (dimensionless)

- 3) The above equation is based on the following assumptions:
- A) The injection zone is homogenous and isotropic;
 - B) The injection zone has infinite area extent;
 - C) The injection well penetrates the entire thickness of the injection zone;
 - D) The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and
 - E) The emplacement of fluid into the injection zone creates instantaneous increase in pressure.

b) Fixed ~~radius~~ Radius.

- 1) In the case of an application for a well permit pursuant to ~~under~~ 35 Ill. Adm. Code 704.161, a fixed radius around the well of not less than 402 meters (one-quarter ~~1/4~~ mile) may be used.
- 2) In the case of an application for an area permit pursuant to ~~under~~ 35 Ill. Adm. Code 704.162, a fixed width of not less than 402 meters (one-

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~~quarter~~¹/₄ mile) for the circumscribing area may be used.

- 3) In determining the fixed radius, the following factors ~~must~~^{shall} be taken into consideration: the chemistry of injected and formation fluids; the hydrogeology; the population and groundwater use and dependence; and historical practices in the area.
- c) If the area of review is determined by a mathematical model pursuant to subsection (a) ~~of this Section, above~~ the permissible radius is the result of such calculation even if it is less than 402 meters (~~one-quarter~~¹/₄ mile).

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.107 Corrective Action

In determining the adequacy of corrective action proposed by the applicant ~~pursuant to~~^{under} 35 Ill. Adm. Code 704.193 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors ~~must~~^{shall} be considered by the Agency:

- a) ~~The nature~~^{Nature} and volume of injected fluid;
- b) ~~The nature~~^{Nature} of native fluids or by-products of injection;
- c) ~~Any potentially~~^{Potentially} affected population;
- d) Geology;
- e) Hydrology;
- f) ~~The history~~^{History} of the injection operation;
- g) ~~Any completion~~^{Completion} and plugging records;
- h) ~~Any abandonment~~^{Abandonment} procedures in effect at the time the well was abandoned; and
- i) ~~Any hydraulic~~^{Hydraulic} connections with underground sources of drinking water.

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(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.108 Mechanical Integrity

- a) The ~~owner or operator~~applicant or permittee must demonstrate mechanical integrity when required by other Sections. An injection well has mechanical integrity if both of the following conditions are fulfilled:
- 1) There is no significant leak in the casing, tubing, or packer; and
 - 2) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection bore.
- b) One of the following tests must be used to demonstrate the absence of significant leaks ~~pursuant to~~under subsection (a)(1) of this Section~~above~~:
- 1) Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Agency, while maintaining an annulus pressure different from atmospheric pressure measured at the surface; or
 - 2) ~~A pressure~~Pressure test with liquid or gas.
- c) One of the following methods may be used to determine the absence of significant fluid movement ~~pursuant to~~under subsection (a)(2) of this Section~~above~~:
- 1) The results of a temperature or noise log; ~~or~~
 - 2) For Class III injection wells where the nature of the casing precludes the use of the logging techniques prescribed at subsection (c)(1) of this Section~~above~~, cementing records demonstrating the presence of adequate cement to prevent migration; or
 - 3) For Class III injection wells where the Agency elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by 35 Ill. Adm. Code 730.113(b) ~~must~~shall be designed to verify the absence of significant fluid movement.
- d) The Agency may allow the use of a test to demonstrate mechanical integrity other than those listed in subsections (b) and (c) of this Section~~above~~. To obtain

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approval, the owner or operator ~~must~~shall submit a written request to the Agency that sets forth the proposed test and all technical data supporting its use. The Agency ~~must~~shall approve the request if the test will reliably demonstrate the mechanical integrity of wells for which its use is proposed.

- e) In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Agency, the owner or operator and the Agency ~~must~~shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Agency, it ~~must~~shall include a description of the test and the method used. In making its evaluation, the Agency ~~must~~shall review monitoring and other test data submitted since the previous evaluation.
- f) The Agency may require additional or alternative tests if the results presented by the owner or operator ~~pursuant to~~under subsection (e) ~~of this Section~~above are not satisfactory to the Agency to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.109 Criteria for Establishing Permitting Priorities

In determining priorities for setting times for owners or operators to submit applications for authorization to inject ~~pursuant to~~under the procedures of 35 Ill. Adm. Code 704.161, the Agency ~~must~~shall base these priorities upon consideration of the following factors:

- a) ~~Any injection~~Injection wells known or suspected to be contaminating underground sources of drinking water;
- b) ~~Any injection~~Injection wells known to be injecting fluids containing hazardous contaminants;
- c) ~~The likelihood~~Likelihood of contamination of underground sources of drinking water;
- d) ~~Any potentially~~Potentially affected population;
- e) ~~Any injection~~Injection wells violating existing Illinois requirements;
- f) Coordination with the issuance of permits required by other State or

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- ~~federal~~Federal permit programs;
- g) ~~The age~~ Age and depth of the injection well; and
- h) ~~The expiration~~Expiration dates of existing Illinois permits, if any.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.110 Plugging and Abandoning Wells

- a) Requirements for Class I, II, and III injection wells.
- 1) Prior to abandoning a Class I or Class III injection well, the well must be plugged with cement in a manner that will not allow the movement of fluids either into or between underground sources of drinking water. The Agency may allow Class III injection wells to use other plugging materials if it is satisfied that such materials will prevent movement of fluids into or between underground sources of drinking water.
 - 2) Placement of the cement plugs must be accomplished by one of the following means:
 - A) The Balance Method;
 - B) The Dump Bailer Method;
 - C) The Two-Plug Method; or
 - D) An alternative method approved by the Agency in the permit that will reliably provide a comparable level of protection to underground sources of drinking water.
 - 3) The well to be abandoned must be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Agency, prior to the placement of the cement plug.
 - 4) The plugging and abandonment required in 35 Ill. Adm. Code 704.181(f) and 704.188 must also demonstrate adequate protection of USDWs in the case of a Class III injection well that underlies or is in an aquifer that has

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been exempted ~~pursuant to~~ Section 730.104. The Agency must prescribe aquifer cleanup and monitoring where it deems it necessary and feasible to insure adequate protection of USDWs.

- b) Requirements for Class IV injection wells. Prior to abandoning a Class IV ~~injection~~ well, the owner or operator must close the well in accordance with 35 Ill. Adm. Code 704.145(b).
- c) Requirements for Class V injection wells.
 - 1) Prior to abandoning a Class V injection well, the owner or operator must close the well in a manner that prevents the movement of fluid containing any contaminant into an underground source of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation ~~pursuant to~~ 35 Ill. Adm. Code 611, may cause a violation of any of the ground water quality standards of 35 Ill. Adm. Code 620, or may otherwise adversely affect the health of persons. Closure requirements for motor vehicle waste disposal wells and large-capacity cesspools are listed at Section 704.289.
 - 2) The owner or operator must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable federal, State, and local regulations and requirements.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

SUBPART B: CRITERIA AND STANDARDS APPLICABLE
TO CLASS I NON-HAZARDOUS ~~WASTE INJECTION~~ WELLS

Section 730.111 Applicability

This Subpart ~~B~~ establishes criteria and standards for underground injection control programs to regulate Class I non-hazardous ~~waste injection~~ wells.

BOARD NOTE: Derived from 40 CFR 146.11 ~~(2005)(1988), as amended at 53 Fed. Reg. 28148, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

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Section 730.112 Construction Requirements

- a) All Class I injection wells ~~must~~shall be sited in such a fashion that they inject into a formation which is beneath the lowermost formation containing, within ~~402400~~ meters (~~one-quarter~~one-quarter mile) of the well bore, an underground source of drinking water.
- b) All Class I injection wells ~~must~~shall be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well ~~must~~shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors ~~must~~shall be considered:
- 1) ~~The depth~~Depth to the injection zone;
 - 2) ~~The injection~~Injection pressure, external pressure, internal pressure, and axial loading;
 - 3) ~~The hole~~Hole size;
 - 4) ~~The size~~Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);
 - 5) ~~The corrosiveness~~Corrosiveness of injected fluid, formation fluids, and temperatures;
 - 6) ~~The lithology~~Lithology of injection and confining intervals; and
 - 7) ~~The type~~Type or grade of cement.
- c) ~~All~~ Class I injection ~~well~~wells, except ~~at~~those municipal ~~well~~ wells injecting non-corrosive wastes, ~~must~~shall protect underground sources of drinking water against movement of fluids from the injection zone upward through the well. ~~An operator~~Operators may do this by injecting fluids through tubing with a packer set immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal ~~must~~shall be designed for the expected service.
- 1) The use of other alternatives to a packer may be allowed with the written

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approval of the Agency. To obtain approval, the operator ~~must~~shall submit a written request to the Agency ~~that sets, which shall set~~ forth the proposed alternative and all technical data supporting its use. The Agency ~~must~~shall approve the request if the alternative method will reliably provide a comparable level of protection to underground sources of drinking water. The Agency may approve an alternative method solely for an individual well; however, the Agency may promulgate criteria approving alternatives pursuant to 35 Ill. Adm. Code 702.106.

- 2) In determining and specifying requirements for tubing, packer, or alternatives the following factors shall be considered:
 - A) ~~The depth~~Depth of setting;
 - B) Characteristics of ~~the~~ injection fluid (chemical content, corrosiveness, and density);
 - C) ~~The injection~~Injection pressure;
 - D) ~~The annular~~Annular pressure;
 - E) ~~The rate~~Rate, temperature, and volume of injected fluid; and
 - F) ~~The size~~Size of casing.
- d) Appropriate logs and other tests ~~must~~shall be conducted during the drilling and construction of new Class I ~~injection~~ wells. A descriptive report interpreting the results of such logs and tests ~~must~~shall be prepared by a knowledgeable log analyst and submitted to the Agency. At a minimum, such logs and tests ~~must~~shall include ~~the following information~~:

 - 1) Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks ~~must~~shall be at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.
 - 2) Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information, that may arise from time to

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time as the construction of the well progresses. In determining which logs and tests ~~must~~ be required, the following logs ~~must~~ be considered for use in the following situations:

- A) For surface casing intended to protect underground sources of drinking water, the following:
 - i) Resistivity, spontaneous potential, and caliper logs before the casing is installed; and
 - ii) A cement bond, temperature, or density log after the casing is set and cemented.

- B) For intermediate and long strings of casing intended to facilitate injection, the following:
 - i) Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;
 - ii) Fracture finder logs; and
 - iii) A cement bond, temperature, or density log after the casing is set and cemented.

- e) At a minimum, the following information concerning the injection formation ~~must~~ be determined or calculated for new Class I injection wells:
 - 1) Fluid pressure;
 - 2) Temperature;
 - 3) Fracture pressure;
 - 4) Other physical and chemical characteristics of the injection matrix; and
 - 5) Physical and chemical characteristics of the formation fluids.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.113 Operating, Monitoring, and Reporting Requirements

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- a) Operating Requirements. Operating requirements ~~must~~shall, at a minimum, specify ~~the following~~that:
- 1) ~~That, except~~Except during stimulation, injection pressure at the wellhead ~~must~~shall not exceed a maximum ~~that must which shall~~ be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case ~~must~~shall injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water_;
 - 2) ~~That injection~~Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited_;
 - 3) ~~That, unless~~Unless an alternative to a packer has been approved ~~pursuant to~~under Section 730.112(c), the annulus between the tubing and the long string of casings ~~must~~shall be filled with a fluid approved by permit condition, and a ~~pressure prescribed~~pressure prescribed by permit condition shall be maintained on the annulus.
- b) Monitoring Requirements. Monitoring requirements ~~must~~shall, at a minimum, include ~~all of the following~~:
- 1) The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;
 - 2) Installation and use of continuous recording devices to monitor injection pressure, flow rate_, and volume, and the pressure on the annulus between the tubing and the long string of casing;
 - 3) A demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well; and
 - 4) The type, number_, and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured_, and the frequency of monitoring.
- c) Reporting Requirements. Reporting requirements ~~must~~shall, at a minimum,

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include:

- 1) Quarterly reports to the Agency on each of the following:
 - A) The physical, chemical, and other relevant characteristics of injection fluids;
 - B) ~~The monthly~~ ~~Monthly~~ average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure; and
 - C) The results of monitoring prescribed ~~pursuant to~~ ~~under~~ subsection (b)(4) of this Section.
- 2) Reporting the results, with the first quarterly report after the completion of each of the following:
 - A) Periodic tests of mechanical integrity;
 - B) Any other test of the injection well conducted by the permittee if required by permit condition; and
 - C) Any well work over.
- d) Ambient monitoring.
 - 1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the Agency ~~must~~ ~~shall~~ require the owner or operator to develop a monitoring program. At a minimum, the Agency ~~must~~ ~~shall~~ require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.
 - 2) When prescribing a monitoring system the Agency may also require:
 - A) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator ~~must~~ ~~shall~~, on a quarterly basis, sample the aquifer and analyze for constituents specified by permit condition;

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- B) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by permit condition or to provide other site-specific data;
- C) Periodic monitoring of the ground water quality in the first aquifer overlying the injection zone;
- D) Periodic monitoring of the ground water quality in the lowermost USDW; and
- E) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.13 ~~(2005)(1988), as amended at 53 Fed. Reg. 28148, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.114 Information to be Considered by the Agency

This ~~Section~~ sets forth the information that must be considered by the Agency in authorizing a Class I injection wells. For an existing or converted new Class I injection well, the Agency may rely on the existing permit file for those items of information listed below which are current and accurate in the file. For a newly drilled Class I injection well, the Agency ~~must~~shall require the submission of all the information listed below. For both existing and new Class I injection wells, certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference, provided they are current, readily available to the Agency (for example, in the Agency's files) and sufficiently identified to be retrieved.

- a) Prior to the issuance of a permit for an existing Class I injection well to operate or the construction or conversion of a new Class I injection well, the Agency ~~must~~shall consider the following:
 - 1) Information required in 35 Ill. Adm. Code 702.120 through 702.124 and ~~35 Ill. Adm. Code~~ 704.161(c);
 - 2) A map showing the injection well for which a permit is sought and the

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applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells, and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;

- 3) A tabulation of data on all wells within the area of review that penetrate into the proposed injection zone. Such data ~~must~~shall include a description of each well's type, construction, date drilled, location, depth, record of plugging or completion, and any additional information the Agency may require;
- 4) Maps and ~~cross-sections~~ cross-sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in each underground source of drinking water that may be affected by the proposed injection;
- 5) Maps and ~~cross-sections~~ cross-sections detailing the geologic structure of the local area;
- 6) Generalized maps and ~~cross-sections~~ cross-sections illustrating the regional geologic setting;
- 7) Proposed operating data, including the following information;
 - A) ~~The average~~ Average and maximum daily rate and volume of the fluid to be injected;
 - B) ~~The average~~ Average and maximum injection pressure; and
 - C) ~~The source~~ Source and an analysis of the chemical, physical, radiological, and biological characteristics of injection fluids;
- 8) ~~A proposed~~ Proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of and other information on the receiving formation;

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- 9) ~~A proposed~~~~Proposed~~ stimulation program;
 - 10) ~~The proposed~~~~Proposed~~ injection procedure;
 - 11) Schematic or other appropriate drawings of the surface and subsurface construction details of the system;
 - 12) Contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into any underground source of drinking water;
 - 13) Plans (including maps) for meeting the monitoring requirements in Section 730.113(b);
 - 14) For wells within the area of review that penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken ~~pursuant to~~~~under~~ 35 Ill. Adm. Code 704.193;
 - 15) Construction procedures including a cementing and casing program;~~;~~ logging procedures;~~;~~ deviation checks;~~;~~ and a drilling, testing, and coring program; and
 - 16) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by 35 Ill. Adm. Code 704.189.
- b) Prior to granting approval for the operation of a Class I injection well, the Agency ~~must~~~~shall~~ consider the following information:
- 1) All available logging and testing program data on the well;
 - 2) A demonstration of mechanical integrity pursuant to Section 730.108;
 - 3) The anticipated maximum pressure and flow rate at that the permittee will operate;
 - 4) The results of the formation testing program;
 - 5) The actual injection procedure;
 - 6) The compatibility of injected waste with fluids in the injection zone and

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minerals in both the injection zone and the confining zone; and

- 7) The status of corrective action on defective wells in the area of review.
- c) Prior to granting approval for the plugging and abandonment of a Class I injection well, the Agency ~~must shall~~ consider the following information:
- 1) The type and number of plugs to be used;
 - 2) The placement of each plug including the elevation of the top and bottom;
 - 3) The type and grade and quantity of cement to be used;
 - 4) The method for placement of the plugs; and
 - 5) The procedure to be used to meet the requirements of Section 730.110(c).

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

SUBPART C: CRITERIA AND STANDARDS APPLICABLE
TO CLASS II INJECTION WELLS

**Section 730.121 Adoption of Criteria and Standards Applicable to Class II Injection Wells
by the Illinois Department of Mines and Minerals**

The criteria and standards for Class II injection wells will be adopted by the Illinois Department of Mines and Minerals pursuant to Section 1425 of the SDWA (42 USC 300h-4).

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

SUBPART D: CRITERIA AND STANDARDS APPLICABLE
TO CLASS III INJECTION WELLS

Section 730.131 Applicability

This ~~Subpart D~~ subpart establishes criteria and standards for underground injection control programs to regulate Class III injection wells.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

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Section 730.132 Construction Requirements

- a) ~~AAH~~ new Class III injection wellwells must be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The Agency may waive the cementing requirements for a new wellwells in existing projects or portions of existing projects where it has substantial evidence that no contamination of underground sources of drinking water would result. The casing and cement used in the construction of each newly drilled well must be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors must be considered:
- 1) ~~The depth~~Depth to the injection zone;
 - 2) ~~The injection~~Injection pressure, external pressure, internal pressure, axial loading, etc.;
 - 3) ~~The hole~~Hole size;
 - 4) ~~The size~~Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);
 - 5) ~~The corrosiveness~~Corrosiveness of injected fluids and formation fluids;
 - 6) ~~The lithology~~Lithology of injection and confining zones; and
 - 7) ~~The type~~Type and grade of cement.
- b) Appropriate logs and other tests must be conducted during the drilling and construction of a new Class III injection wellwells. A descriptive report interpreting the results of such logs and tests must be prepared by a knowledgeable log analyst and submitted to the Agency. The logs and tests appropriate to each type of Class III injection well must be determined based on the intended function, depth, construction, and other characteristics of the well; the availability of similar data in the area of the drilling site; and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks must be conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they must be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

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- c) Where the injection zone is a formation that is naturally water-bearing, the following information concerning the injection zone must be determined or calculated for a new Class III injection well or project~~wells or projects~~:
- 1) The fluid~~Fluid~~ pressure;
 - 2) The fracture~~Fracture~~ pressure; and
 - 3) The physical~~Physical~~ and chemical characteristics of the formation fluids.
- d) Where the injection formation is not a water-bearing formation, the information in subsection (c)(2) of this Section~~above~~ must be submitted.
- e) Where injection is into a formation that contains water with less than 10,000 mg/l ~~mg/l~~ TDS, monitoring wells must~~shall~~ be completed into the injection zone and into any underground sources of drinking water above the injection zone that could be affected by the mining operation. These wells must~~shall~~ be located in such a fashion as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse, the monitoring wells must~~shall~~ be located so that they will not be physically affected.
- f) Where injection is into a formation that does not contain water with less than 10,000 mg/l ~~mg/l~~ TDS, no monitoring wells are necessary in the injection stratum.
- g) Where the injection wells penetrate an USDW in an area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells must be completed into the USDW to detect any movement of injected fluids, process by-products, or formation fluids into the USDW. The monitoring wells must be located outside the physical influence of the subsidence or catastrophic collapse.
- h) In determining the number, location, construction, and frequency of monitoring of the monitoring wells the following criteria must be considered:
- 1) The population relying on the USDW affected or potentially affected by the injection operation;
 - 2) The proximity of the injection operation to points of withdrawal of

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drinking water;

- 3) The local geology and hydrology;
- 4) The operating pressures and whether a negative pressure gradient is being maintained;
- 5) The nature and volume of the injected fluid, the formation water, and the process by-products; and
- 6) The injection well density.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.133 Operating, Monitoring, and Reporting Requirements

- a) Operating ~~requirements~~**Requirements**. Operating requirements prescribed must, at a minimum, specify each of the following~~that~~:
 - 1) ~~That, except~~ **Except** during well stimulation, the injection pressure at the wellhead must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case ~~must~~**shall** injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids into an underground source of drinking water; ~~and-~~
 - 2) ~~That injection~~**Injection** between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.
- b) Monitoring ~~requirements~~**Requirements**. Monitoring requirements ~~must~~**shall**, at a minimum, specify the information set forth in subsections (b)(1) through (b)(5) of this Section:
 - 1) Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis required by Section 730.134 (a)(7)(C) is incorrect or incomplete, the owner or operator ~~must~~**shall** provide the Agency with a new analysis as required by Section 730.134 (a)(7)(C);

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- 2) Monitoring of injection pressure and either flow rate or volume semimonthly, or metering and daily recording of injected and produced fluid volumes, as appropriate;
 - 3) Demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well for salt solution mining;
 - 4) Monitoring of the fluid level in the injection zone semi-monthly, where appropriate, and monitoring of the parameters chosen to measure water quality in the monitoring wells required by Section 730.132(e) semi-monthly; and
 - 5) Quarterly monitoring of wells required by Section 730.132(g).
 - 6) ~~AAH~~ Class III ~~injection well~~~~wells~~ may be monitored on a field or project basis, rather than on an individual well basis, by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring.
- c) Reporting ~~requirements~~~~Requirements~~. Reporting requirements ~~must~~~~shall~~, at a minimum, include the information set forth in subsections (c)(1) and (c)(2) of this Section, subject to subsection (c)(3) of this Section:
- 1) Quarterly reporting to the Agency on required monitoring; ~~and~~
 - 2) Results of mechanical integrity and any other periodic test required by the Agency reported with the first regular quarterly report after the completion of the test. ~~;~~~~and~~
 - 3) Monitoring may be reported on a project or field basis rather than individual well basis where manifold monitoring is used.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.134 Information to be Considered by the Agency

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This ~~Section~~ sets forth information ~~that~~ which must be considered by the Agency in authorizing a Class III ~~injection well~~s. Certain maps, ~~cross-sections~~ ~~cross-sections~~, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Agency (for example, in the Agency's files) and sufficiently identified to be retrieved.

- a) Prior to the issuance of a permit ~~to operate for~~ an existing Class III ~~injection~~ well or area to operate or ~~for~~ the construction of a new Class III ~~injection~~ well, the Agency ~~must~~ ~~shall~~ consider the following:
 - 1) ~~The information~~ ~~Information required~~ in 35 Ill. Adm. Code 702.120 through 702.124 and ~~35 Ill. Adm. Code~~ 704.161(c);
 - 2) A map showing the injection well or project area for which the permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells, dry holes, public water systems, and water wells. The map may also show surface bodies of waters, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or suspected. Only information of public record and pertinent information known to the applicant is required to be included on this map;
 - 3) A tabulation of data reasonably available from public records or otherwise known to the applicant on wells within the area of review included on the map required ~~pursuant to subsection under paragraph~~ (a)(2) ~~that~~ which penetrate the proposed injection zone. Such data ~~must~~ ~~shall~~ include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, and any additional information the Agency may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction the Agency may elect to only require data on a representative number of wells;
 - 4) Maps and ~~cross-sections~~ ~~cross-sections~~ indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movements, where known, in every underground source of drinking water ~~that~~ which may be affected by the proposed injection;
 - 5) Maps and ~~cross-sections~~ ~~cross-sections~~ detailing the geologic structure of

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the local area;

- 6) Generalized map and ~~cross-sections~~cross-sections illustrating the regional geologic setting;
- 7) Proposed operating data, as follows:
 - A) ~~The average~~Average and maximum daily rate and volume of fluid to be injected;
 - B) ~~The average~~Average and maximum injection pressure; and
 - C) Qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request confidentiality as specified in 35 Ill. Adm. Code 101.107. If the information is proprietary an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations ~~that must which shall~~ not be exceeded. In such a case the applicant ~~must shall~~ retain records of the undisclosed concentrations and provide them upon request to the Agency as part of any enforcement investigation;
- 8) ~~A proposed~~Proposed formation testing program to obtain the information required by Section 730.132(c);
- 9) ~~A proposed~~Proposed stimulation program;
- 10) ~~The proposed~~Proposed injection procedure;
- 11) Schematic or other appropriate drawings of the surface and subsurface construction details of the system;
- 12) Plans (including maps) for meeting the monitoring requirements of Section 730.133(b);
- 13) Expected changes in pressure, native fluid displacement, direction of movement of injection fluid;
- 14) Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into underground sources of

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drinking water;

- 15) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by 35 Ill. Adm. Code 704.189; and
 - 16) The corrective action proposed to be taken pursuant to ~~under~~ 35 Ill. Adm. Code 704.193.
- b) Prior to granting approval for the operation of a Class III injection well, the Agency ~~must~~shall consider the following information:
- 1) All available logging and testing data on the well;
 - 2) A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution pursuant to Section 730.108;
 - 3) The anticipated maximum pressure and flow rate at which the permittee will operate;
 - 4) The results of the formation testing program;
 - 5) The actual injection procedures; and
 - 6) The status of corrective action on defective wells in the area of review.
- c) Prior to granting approval for the plugging and abandonment of a Class III injection well, the Agency ~~must~~shall consider the following information:
- 1) The type and number of plugs to be used;
 - 2) The placement of each plug including the elevation of the top and bottom;
 - 3) The type, grade, and quantity of cement to be used;
 - 4) The method of placement of the plugs; and
 - 5) The procedure to be used to meet the requirements of Section 730.110(c).

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

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SUBPART F: CRITERIA AND STANDARDS APPLICABLE
TO CLASS V INJECTION WELLS**Section 730.151 Applicability**

This Subpart **F** sets forth criteria and standards for underground injection control programs to regulate all injection not regulated in ~~Subparts B, D, and E of this Part 730. Subparts B, D, and E.~~ **A** Class II injection well~~wells~~, however, ~~is~~**are** not regulated by this Subpart **F**.

- a) Generally, ~~a well~~**wells** covered by this Subpart **F** ~~injects~~**inject** non-hazardous fluids into or above formations that contain underground sources of drinking water. It includes all wells listed in Section 730.105(e) but is not limited to those types of injection wells.
- b) It also includes ~~a well~~**wells** not covered in Class IV that ~~injects~~**inject** radioactive materials listed in table II, column 2 in appendix B to 10 CFR 20 (Water Effluent Concentrations), incorporated by reference in 35 Ill. Adm. Code 720.111(b); Appendix B, Table II, Column 2.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO
CLASS I HAZARDOUS WASTE INJECTION WELLS**Section 730.161 Applicability and Definitions**

- a) This Subpart **G** establishes criteria and standards for underground injection control programs to regulate Class I hazardous waste injection wells. Unless otherwise noted, this Subpart **G** supplements the requirements of Subpart **A** of this Part and applies instead of Subpart **B** of this Part to **a** Class I hazardous waste injection well~~wells~~.

- b) Definitions. The following definitions apply for the purposes of this Subpart G:

"Cone of influence" means that area around the well within which increased injection zone pressures caused by injection into the hazardous waste injection well would be sufficient to drive fluids into a USDW.

"Existing well" means a Class I hazardous waste injection well ~~that~~**which**

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had a UIC permit or UIC permit by rule prior to August 25, 1988, or a well ~~that~~^{which} has become a Class I hazardous waste injection well as a result of a change in the definition of the injected waste which would render the waste hazardous ~~pursuant to~~^{under} 35 Ill. Adm. Code 721.103.

"Injection interval" means that part of the injection zone in which the well is screened, or in which the waste is otherwise directly emplaced.

"New well" means any Class I hazardous waste injection well ~~that~~^{which} is not an existing well.

"Transmissive fault or fracture" is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: Derived from 40 CFR 146.61 ~~(2005), as added at 53 Fed. Reg. 28148, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.162 Minimum Criteria for Siting

- a) All Class I hazardous waste injection wells must be sited such that they inject into a formation that is beneath the lowermost formation containing, within 402 meters (~~one-quarter~~^{1/4} mile) of the well bore, a USDW.
- b) The siting of ~~a~~^a Class I hazardous waste injection ~~well must~~^{wells shall} be limited to ~~an area~~^{areas} that ~~is~~^{are} geologically suitable. The Agency ~~must~~^{shall} determine geologic suitability based upon its consideration of the following:
 - 1) An analysis of the structural and stratigraphic geology, the hydrogeology, and the seismicity of the region;
 - 2) An analysis of the local geology and hydrogeology of the well site, including, at a minimum, detailed information regarding stratigraphy, structure, and rock properties; aquifer hydrodynamics; and mineral resources; and
 - 3) A determination that the geology of the area can be described confidently and that limits of waste fate and transport can be accurately predicted

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through the use of models.

- c) Class I hazardous waste injection wells ~~must~~shall be sited such that the following is true:
- 1) The injection zone has sufficient permeability, porosity, thickness, and area extent to prevent migration of fluids into USDWs; and
 - 2) The confining zone is as follows:
 - A) ~~It is~~Is laterally continuous and free of transecting, transmissive faults, or fractures over an area sufficient to prevent the movement of fluids into a USDW; and
 - B) ~~It contains~~Contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of preventing vertical propagation of fractures.
- d) The owner or operator ~~must~~shall demonstrate one of the alternatives in subsections (d)(1) through (d)(3) of this Section to the Agency, subject to subsection (d)(4) of this Section~~that~~:
- 1) ~~That the~~The confining zone is separated from the base of the lowermost USDW by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for the USDW in the event of fluid movement in an unlocated borehole or transmissive fault; ~~or~~
 - 2) ~~That, within~~Within the area of review, the piezometric surface of the fluid in the injection zone is less than the piezometric surface of the lowermost USDW, considering density effects, injection pressures, and any significant pumping in the overlying USDW; or
 - 3) There is no USDW present.
 - 4) The owner or operator of a site ~~that~~which does not meet the requirements in subsection (d)(1), (d)(2), or (d)(3) of this Section may petition the Board for an adjusted standard pursuant to Subpart D of 35 Ill. Adm. Code 104106~~Subpart G~~. The Board may grant an adjusted standard approving such a site if it determines that because of site geology, nature of the wastes involved, or other considerations; abandoned boreholes; or other

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conduits would not cause an endangerment of USDWs. A petition for an adjusted standard ~~pursuant to~~ ~~under~~ this subsection ~~(e)~~ must include the following components:

- A) Those portions of a permit application for the particular injection activities and site ~~that~~ ~~which~~ are relevant to the Board's determination; and
- B) Such other relevant information that the Board may by order require pursuant to 35 Ill. Adm. Code ~~104.228106.705(1)~~.

BOARD NOTE: Derived from 40 CFR 146.62 ~~(2005)~~, ~~as added at 53 Fed. Reg. 28148, July 26, 1988~~.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.163 Area of Review

For purposes of Class I hazardous waste injection wells, this Section applies instead of Section 730.106. The area of review for ~~a~~ Class I hazardous waste ~~injection well must~~ ~~wells shall~~ be a ~~two-mile 2-mile~~ radius around the well bore. The Agency may specify by permit condition a larger area of review in the UIC permit ~~if it determines in writing that the larger area is necessary~~ based on the calculated cone of influence of the well.

BOARD NOTE: Derived from 40 CFR 146.63 ~~(2005)~~, ~~added at 53 Fed. Reg. 28148, July 26, 1988~~.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.164 Corrective Action for Wells in the Area of Review

For purposes of ~~a~~ Class I hazardous waste injection ~~well~~ ~~wells~~, this Section applies instead of 35 Ill. Adm. Code 704.193 and Section 730.107.

- a) The owner or operator of a Class I hazardous waste ~~injection~~ well ~~must~~ ~~shall~~, as part of the permit application, submit a plan to the Agency outlining the protocol used to ~~accomplish both of the following~~:
 - 1) Identify all wells penetrating the confining zone or injection zone within the area of review; and

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- 2) Determine whether wells are adequately completed or plugged.
- b) The owner or operator of a Class I hazardous waste injection well ~~must~~shall identify the location of all wells within the area of review that penetrate the injection zone or the confining zone and ~~must~~shall submit both of the following, as required in Section 730.170(a):
- 1) A tabulation of all wells within the area of review that penetrate the injection zone or the confining zone; and
 - 2) A description of each well or type of well and any records of its plugging or completion.
- c) For wells that the Agency determines are improperly plugged, completed, or abandoned, or for which plugging or completion information is unavailable, the applicant ~~must~~shall also submit a plan consisting of such steps or modification as are necessary to prevent movement of fluids into or between USDWs. Where the plan is adequate, the Agency ~~must~~shall incorporate it into the permit as a condition. Where the Agency's review of an application indicates the permittee's plan is inadequate (based at a minimum on the factors in subsection (e) of this Section), the Agency must do the appropriate of the following~~shall~~:
- 1) It must require~~Require~~ the applicant to revise the plan;
 - 2) It must prescribe~~Prescribe~~ a plan for corrective action as a condition of the permit; or
 - 3) It must deny~~Deny~~ the application.
- d) Requirements~~:~~:
- 1) Existing injection wells. Any permit issued for an existing Class I hazardous waste injection well requiring corrective action other than pressure limitations must include a compliance schedule pursuant to~~under~~ 35 Ill. Adm. Code 702.162 requiring any corrective action accepted or prescribed pursuant to~~under~~ subsection (c) of this Section. Any such compliance schedule must provide for compliance no later than two~~2~~ years following issuance of the permit and must require observance of appropriate pressure limitations pursuant to~~under~~ subsection (d)(3) of this

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- Section until all other corrective action measures have been implemented.
- 2) New injection wells. No owner or operator of a new Class I hazardous waste injection well may begin injection until all corrective actions required pursuant to~~under~~ this Section have been taken.
 - 3) The Agency may require pressure limitations instead of plugging. If pressure limitations are used instead of plugging, the Agency must~~shall~~ require as a permit condition that injection pressure be limited so that pressure in the injection zone at the site of any improperly completed or abandoned well within the area of review would not be sufficient to drive fluids into or between USDWs. This pressure limitation must~~shall~~ satisfy the corrective action requirements. Alternatively, such injection pressure limitation may be made part of a compliance schedule pursuant to~~under~~ 35 Ill. Adm. Code 702.162 and may be required to be maintained until all other required corrective actions have been implemented.
- e) The Agency must~~shall~~ consider the following criteria and factors in determining the adequacy of corrective action proposed by the applicant pursuant to~~under~~ subsection (c) of this Section and in determining the additional steps needed to prevent fluid movement into and between USDWs:
- 1) The nature~~Nature~~ and volume of injected fluid;
 - 2) The nature~~Nature~~ of native fluids or byproducts of injection;
 - 3) Geology;
 - 4) Hydrology;
 - 5) The history~~History~~ of the injection operation;
 - 6) Any completion~~Completion~~ and plugging records;
 - 7) The closure~~Closure~~ procedures in effect at the time the well was closed;
 - 8) Any hydraulic~~Hydraulic~~ connections with USDWs;
 - 9) The reliability~~Reliability~~ of the procedures used to identify abandoned wells; and

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- 10) Any other factors ~~that~~~~which~~ might affect the movement of fluids into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.64 (2005), ~~as added at 53 Fed. Reg. 28149, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.165 Construction Requirements

- a) General. All existing and new Class I hazardous waste injection wells ~~must~~~~shall~~ be constructed and completed to ~~accomplish each of the following~~:
- 1) Prevent the movement of fluids into or between USDWs or into any unauthorized zones;
 - 2) Permit the use of appropriate testing devices and workover tools; and
 - 3) Permit continuous monitoring of injection tubing and long string casing as required pursuant to Section 730.167(f);
- b) Compatibility. All well materials must be compatible with fluids with which the materials may be expected to come into contact. The owner or operator ~~must~~~~shall~~ employ any compatibility testing method specified by permit condition. The owner or operator may otherwise refer to "Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells," ~~USEPA publication number~~ EPA_570/9-87-002, incorporated by reference at 35 Ill. Adm. Code 720.111.
- c) Casing and ~~cementing new wells~~~~Cementing New Wells~~.
- 1) Casing and cement used in the construction of each newly drilled well ~~must~~~~shall~~ be designed for the life expectancy of the well, including the post-closure care period. The casing and cementing program ~~must~~~~shall~~ be designed to prevent the movement of fluids into or between USDWs, and to prevent potential leaks of fluids from the well. The Agency ~~must~~~~shall~~ consider the following information as required by Section 730.170 in determining and specifying casing and cementing requirements:

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- A) ~~The depth~~Depth to the injection zone;
- B) ~~The injection~~Injection pressure, external pressure, internal pressure and axial loading;
- C) ~~The hole~~Hole size;
- D) ~~The size~~Size and grade of all casing strings (well thickness, diameter, nominal weight, length, joint specification, and construction material);
- E) ~~The corrosiveness~~Corrosiveness of injected fluid, formation fluids and temperature;
- F) ~~The lithology~~Lithology of the injection and confining zones;
- G) ~~The type~~Type or grade of cement; and
- H) ~~The quantity~~Quantity and chemical composition of the injected fluid.
- 2) One surface casing string must, at a minimum, extend into the confining bed below the lowest formation that contains a USDW and be cemented by circulating cement from the base of the casing to the surface, using a minimum of ~~120 percent~~120% of the calculated annular volume. The Agency may require more than ~~120 percent~~120% when the geology or other circumstances warrant it.
- 3) At least one long string casing, using a sufficient number of centralizers, must extend to the injection zone and must be cemented by circulating cement to the surface in one or more stages:
- A) Of sufficient quantity and quality to withstand the maximum operating pressure; and
- B) In a quantity no less than ~~120 percent~~120% of the calculated volume necessary to fill the annular space. The Agency ~~must~~shall require more than ~~120 percent~~120% when the geology or other circumstances warrant it.

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- 4) Circulation of cement may be accomplished by staging. The Agency may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement is continuous and does not allow fluid movement behind the well bore.
 - 5) Casings, including any casing connections, must be rated to have sufficient structural strength to withstand both of the following conditions, for the design life of the well:
 - A) The maximum burst and collapse pressures that which may be experienced during the construction, operation, and closure of the well; and
 - B) The maximum tensile stress that which may be experienced at any point along the length of the casing during the construction, operating, and closure of the well.
 - 6) At a minimum, cement and cement additives must be of sufficient quality and quantity to maintain integrity over the design life of the well.
- d) Tubing and packer.
- 1) All Class I hazardous waste injection wells must inject fluids through tubing with a packer set at a point specified by permit condition.
 - 2) In determining and specifying requirements for tubing and packer, the following factors must be considered:
 - A) The depth~~Depth~~ of setting;
 - B) The characteristics~~Characteristics~~ of injection fluid (chemical content, corrosiveness, temperature, and density);
 - C) The injection~~Injection~~ pressure;
 - D) The annular~~Annular~~ pressure;
 - E) The rate~~Rate~~ (intermittent or continuous), temperature, and volume of injected fluid;

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- F) ~~The size~~Size of casing; and
 - G) ~~The tubing~~Tubing tensile, burst, and collapse strengths.
- 3) The Agency may approve the use of a fluid seal if it determines in writing that the following conditions are met:
- A) The operator demonstrates that the seal will provide a level of protection comparable to a packer;
 - B) The operator demonstrates that the staff is, and will remain, adequately trained to operate and maintain the well and to identify and interpret variations in parameters of concern;
 - C) The permit contains specific limitations on variations in annular pressure and loss of annular fluid;
 - D) The design and construction of the well allows continuous monitoring of the annular pressure and mass balance of annular fluid; and
 - E) A secondary system is used to monitor the interface between the annulus fluid and the injection fluid and the permit contains requirements for testing the system every three months and recording the results.

BOARD NOTE: Derived from 40 CFR 146.65 ~~(2005), added at 53 Fed. Reg. 28149, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.166 Logging, Sampling, and Testing Prior to New Well Operation

- a) During the drilling and construction of a new Class I hazardous waste injection well, the owner or operator ~~must~~shall run appropriate logs and tests to determine or verify the depth, thickness, porosity, permeability, rock type, and the salinity of any entrained fluids in, all relevant geologic units to assure conformance with performance standards set forth in Section 730.165 and to establish accurate baseline data against which future measurements may be compared. A

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descriptive report interpreting results of such logs and tests ~~must~~ shall be prepared by a knowledgeable log analyst and submitted to the Agency. At a minimum, such logs and tests must include the following information:

- 1) Deviation checks during drilling on all holes constructed by drilling a pilot hole ~~that~~ which is enlarged by reaming or another method. Such checks must be at sufficiently frequent intervals to determine the location of the borehole and to assure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling; and
- 2) Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information that may arise from time to time as the construction of the well progresses. At a minimum, the following logs must be required in the ~~indicated~~ following situations:
 - A) Upon installation of the surface casing, the following information:
 - i) Resistivity, spontaneous potential, and caliber logs before the casing is installed; and
 - ii) A cement bond and variable density log, and a temperature log after the casing is set and cemented; and
 - B) Upon installation of the long string casing, the following information:
 - i) Resistivity, spontaneous potential, porosity, caliper, gamma ray, and fracture finder logs before the casing is installed; and
 - ii) A cement bond and variable density log, and a temperature log after the casing is set and cemented; and
 - C) The Agency ~~must~~ shall allow the use of an alternative to the above logs when an alternative will provide equivalent or better information; and
- 3) A mechanical integrity test consisting of the following:

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- A) A pressure test with liquid or gas;
 - B) A radioactive tracer survey;
 - C) A temperature or noise log;
 - D) A casing inspection log, if required by permit condition; and
 - E) Any other test required by permit condition.
- b) Whole cores or sidewall cores of the confining and injection zones and formation fluid samples from the injection zone must be taken. The Agency may accept cores from nearby wells if the owner or operator can demonstrate that core retrieval is not possible and that such cores are representative of conditions at the well. The Agency may require the owner or operator to core other formations in the borehole.
- c) The fluid temperature, pH, conductivity, pressure, and the static fluid level of the injection zone must be recorded.
- d) At a minimum, the following information concerning the injection and confining zones ~~must shall~~ be determined or calculated for Class I hazardous waste injection wells:
- 1) ~~The fracture~~Fracture pressure;
 - 2) Other physical and chemical characteristics of the injection and confining zones; and
 - 3) ~~The physical~~Physical and chemical characteristics of the formation fluids in the injection zone.
- e) Upon completion, but prior to operation, the owner or operator ~~must shall~~ conduct the following tests to verify hydrogeologic characteristics of the injection zone:
- 1) A pump test; or
 - 2) Injectivity tests.
- f) The Agency ~~must shall~~ have the opportunity to witness all logging and testing

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required by this Subpart **G**. The owner or operator ~~must~~ shall submit a schedule of such activities to the Agency not less than 30 days prior to conducting the first test.

BOARD NOTE: Derived from 40 CFR 146.66 (2005), ~~as added at 53 Fed. Reg. 28150, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.167 Operating Requirements

- a) Except during stimulation, the owner or operator must assure that injection pressure at the wellhead does not exceed a maximum that must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. The owner or operator must assure that the injection pressure does not initiate fractures or propagate existing fractures in the confining zone, nor cause the movement of injection or formation fluids into a USDW.
- b) Injection between the outermost casing ~~protecting~~ protection USDWs and the well bore is prohibited.
- c) The owner or operator must maintain an annulus pressure that exceeds the operating injection pressure, unless the Agency determines **in writing** that such a requirement might harm the integrity of the well. The fluid in the annulus must be noncorrosive, or must contain a corrosion inhibitor.
- d) The owner or operator must maintain mechanical integrity of the injection well at all times.
- e) Permit requirements for owners or operators of hazardous waste injection wells that inject wastes ~~that~~ which have the potential to react with the injection formation to generate gases must include **the following**:
 - 1) Conditions limiting the temperature, pH, or acidity of the injected waste; and
 - 2) Procedures necessary to assure that pressure imbalances that might cause a backflow or blowout do not occur.

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- f) The owner or operator must install and use continuous recording devices to monitor each of the following: the injection pressure; the flow rate, volume, and temperature of injected fluids; and the pressure on the annulus between the tubing and the long string casing, and must install and use either of the following:
- 1) Automatic alarm and automatic shut-off systems, designed to sound and shut-in the well when pressures and flow rates or other parameters specified by permit condition exceed a range or gradient specified in the permit; or
 - 2) Automatic alarms, designed to sound when the pressures and flow rates or other parameters exceed a rate or gradient specified in the permit, in cases where the owner or operator certifies that a trained operator will be on-site at all times when the well is operating.
- g) If an automatic alarm or shutdown is triggered, the owner or operator must immediately investigate and identify the cause of the alarm or shutoff without undue delay. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required pursuant to~~under~~ subsection (f) of this Section otherwise indicates that the well may be lacking mechanical integrity, the owner or operator must undertake all of the following actions:
- 1) It must stop ~~Stop~~ injecting waste fluids unless authorized by permit condition to continue or resume injection;
 - 2) It must take ~~Take~~ all necessary steps to determine the presence or absence of a leak; and
 - 3) It must notify ~~Notify~~ the Agency within 24 hours after the alarm or shutdown.
- h) If a loss of mechanical integrity is discovered pursuant to subsection (g) of this Section or during periodic mechanical integrity testing, the owner or operator must undertake all of the following actions:
- 1) It must immediately ~~Immediately~~ cease injection of waste fluids;
 - 2) It must take ~~Take~~ all steps reasonably necessary to determine whether there may have been a release of hazardous wastes or hazardous waste constituents into any unauthorized zone;

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- 3) ~~It must notify~~Notify the Agency within 24 hours after loss of mechanical integrity is discovered;
 - 4) ~~It must notify~~Notify the Agency when injection can be expected to resume; and
 - 5) ~~It must restore~~Restore and demonstrate mechanical integrity pursuant to Section 730.108 prior to resuming injection of waste fluids.
- i) Whenever the owner or operator obtains evidence that there may have been a release of injected wastes into an unauthorized zone, the following must occur:
- 1) The owner or operator must immediately cease injection of waste fluids, and undertake all of the following actions:
 - A) ~~It must notify~~Notify the Agency within 24 hours of obtaining such evidence;
 - B) ~~It must take~~Take all necessary steps to identify and characterize the extent of any release;
 - C) ~~It must comply~~Comply with any remediation plan specified by permit condition;
 - D) ~~It must implement~~Implement any remediation plan specified by permit condition; and
 - E) Where such release is into a USDW currently serving as a water supply, it must place a notice in a newspaper of general circulation.
 - 2) The Agency must permit the operator to resume injection prior to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger USDWs.
- j) The owner or operator must notify the Agency and obtain a permit modification prior to conducting any well workover.

BOARD NOTE: Derived from 40 CFR 146.67 ~~(2005)~~(1999).

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(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.168 Testing and Monitoring Requirements

Testing and monitoring requirements ~~mustshall~~ at a minimum include:

- a) Monitoring of the injected wastes.
 - 1) The owner or operator ~~mustshall~~ develop and follow an approved written waste analysis plan that describes the procedures to be carried out to obtain a detailed chemical and physical analysis of a representative sample of the waste, including the quality assurance procedures used. At a minimum, the plan ~~mustshall~~ specify all of the following:
 - A) The parameters for which the waste will be analyzed and the rationale for the selection of these parameters;
 - B) The test methods that will be used to test for these parameters; and
 - C) The sampling method that will be used to obtain a representative sample of the waste to be analyzed.
 - 2) The owner or operator ~~mustshall~~ repeat the analysis of the injected wastes as described in the waste analysis plan at frequencies specified in the waste analysis plan and when process or operating changes occur that may significantly alter the characteristics of the waste stream.
 - 3) The owner or operator ~~mustshall~~ conduct continuous or periodic monitoring of selected parameters as required by permit condition.
 - 4) The owner or operator ~~mustshall~~ assure that the plan remains accurate and the analyses remain representative.
- b) Hydrogeologic compatibility determination. The owner or operator ~~mustshall~~ submit information demonstrating that the wastestream and its anticipated reaction products will not alter the permeability, thickness, or other relevant characteristics of the confining or injection zones such that they would no longer meet the requirements specified in Section 730.162.
- c) Compatibility of well materials.

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- 1) The owner or operator ~~must~~ shall demonstrate that the waste stream will be compatible with the well materials with which the waste is expected to come into contact, and submit to the Agency a description of the methodology used to make that determination. Compatibility₂ for the purposes of this requirement₂ is established if contact with injected fluids will not cause the well materials to fail to satisfy any design requirement imposed ~~pursuant to under~~ Section 730.165(b).
- 2) The Agency ~~must~~ shall require continuous corrosion monitoring of the construction materials used in the well for wells injecting corrosive waste, and may require such monitoring for other wastes, by any of the following means:
 - A) Placing coupons of the well construction materials in contact with the waste stream; ~~or~~
 - B) Routing the waste stream through a loop constructed with the material used in the well; or
 - C) Using an alternative method approved by permit condition.
- 3) If a corrosion monitoring program is required, both of the following must occur:
 - A) The test must use materials identical to those used in the construction of the well, and such materials must be continuously exposed to the operating pressures and temperatures (measured at the well head) and flow rates of the injection operation; and
 - B) The owner or operator ~~must~~ shall monitor the materials for loss of mass, thickness, cracking, pitting₂, and other signs of corrosion on a quarterly basis to ensure that the well components meet the minimum standards for material strength and performance set forth in Section 730.165(b).
- d) Periodic mechanical integrity testing. In fulfilling the requirements of Section 730.108, the owner or operator of a Class I hazardous waste injection well ~~must~~ shall conduct the mechanical integrity testing as follows:

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- 1) The long string casing, injection tube, and annular seal must be tested by means of an approved pressure test with a liquid or gas annually and whenever there has been a well workover;
- 2) The bottom-hole cement must be tested by means of an approved radioactive tracer survey annually;
- 3) An approved temperature, noise, or other approved log must be run at least once every five years to test for movement of fluid along the borehole. The Agency may require such tests whenever the well is worked over;
- 4) Running casing inspection logs.
 - A) Casing inspection logs must be run whenever the owner or operator conducts a workover in which the injection string is pulled, unless the Agency by permit allows otherwise for either of the following reasons:
 - i) Due to well construction or other factors that limit the test's reliability; or
 - ii) Based on the satisfactory results of a casing inspection log run within the previous five years.
 - B) The Agency may require by permit that the owner or operator run a casing inspection log if it determines in writing that it has reason to believe that the integrity of the long string casing of the well may be adversely affected by naturally-occurring or man-made events; and
- 5) Any other test specified by permit condition in accordance with the procedures set forth in Section 730.108(d) may also be used.
- e) Ambient monitoring.
 - 1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone, and on the potential value of monitoring wells to detect such movement, the Agency must require the owner or operator to develop a monitoring program. At a minimum, the Agency must require monitoring of the pressure buildup in the injection zone

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annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.

- 2) When prescribing a monitoring system the Agency may also require any of the following actions that it determines in writing is necessary:
 - A) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator ~~must~~shall, on a quarterly basis, sample the aquifer, and analyze for constituents specified by permit condition;
 - B) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by permit condition, or to provide other site-specific data;
 - C) Periodic monitoring of the groundwater quality in the first aquifer overlying the injection zone;
 - D) Periodic monitoring of the ground water quality in the lowermost USDW;
 - E) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs; ~~or~~and
 - F) ~~Seismicity The Agency may require seismicity~~ monitoring, when ~~the Agency~~it has reason to believe that the injection activity may have the capacity to cause seismic disturbances.

BOARD NOTE: Derived from 40 CFR 146.68 ~~(2005)(1992)~~, ~~as amended at 57 Fed. Reg. 46294, October 7, 1993.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.169 Reporting Requirements

Reporting requirements must, at a minimum, include the following:

- a) Quarterly reports to the Agency containing the following information:

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- 1) The maximum injection pressure;
 - 2) A description of any event that exceeds operating parameters for annulus pressure or injection pressure as specified in the permit;
 - 3) A description of any event ~~that~~~~which~~ triggers an alarm or shutdown device required pursuant to Section 730.167(f) and the response taken;
 - 4) The total volume of fluid injected;
 - 5) Any change in the annular fluid volume;
 - 6) The physical, chemical, and other relevant characteristics of injected fluids; and
 - 7) The results of monitoring prescribed ~~pursuant to~~~~under~~ Section 730.168; and
- b) Reporting, within 30 days or with the next quarterly report, whichever comes later, the results of ~~any of the following activities~~;
- 1) Periodic tests of mechanical integrity;
 - 2) Any other test of the injection well conducted by the permittee if required by permit condition; and
 - 3) Any well workover.

BOARD NOTE: Derived from 40 CFR 146.69 ~~(2005), as added at 53 Fed. Reg. 28152, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.170 Information to be Evaluated

This Section sets forth the information ~~that~~~~which~~ must be evaluated by the Agency in authorizing ~~a~~ Class I hazardous waste injection ~~well~~~~wells~~. For a new Class I hazardous waste injection well, the owner or operator ~~must~~~~shall~~ submit all the information listed below as part of the permit application. For an existing or converted Class I hazardous waste injection well, the owner or operator ~~must~~~~shall~~ submit all information listed below as part of the permit application except for

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those items of information ~~that~~~~which~~ are current, accurate, and available in the existing permit file. For ~~either an~~~~both~~-existing ~~or~~~~and~~ new Class I hazardous waste injection ~~well~~~~wells~~, certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference, provided they are current, and readily available to the Agency (for example, in the permitting Agency's file), and sufficiently identifiable to be retrieved.

- a) Before issuing a permit for an existing Class I hazardous waste injection well to operate, or the construction or conversion of a new Class I hazardous waste injection well, the Agency ~~must~~~~shall~~ review the following to assure that the requirements of this Part and 35 Ill. Adm. Code 702 and 704 are met:
 - 1) Information required in 35 Ill. Adm. Code 704.161;
 - 2) A map showing the injection well for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells, and other pertinent surface features, including residences and roads. The map must also show faults, if known or suspected;
 - 3) A tabulation of all wells within the area of review ~~that~~~~which~~ penetrate the proposed injection zone or confining zone. Such data must include a description of each well's type, construction, date drilled, location, depth, record of plugging or completion, and any additional information the Agency may require;
 - 4) The protocol followed to identify, locate and ascertain the condition of abandoned wells within the area of review ~~that~~~~which~~ penetrate the injection or the confining zones;
 - 5) Maps and cross-sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in each underground source of drinking water ~~that~~~~which~~ may be affected by the proposed injection;
 - 6) Maps and cross-sections detailing the geologic structure of the local area;

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- 7) Maps and cross-sections illustrating the regional geologic setting;
 - 8) Proposed operating data, as follows:
 - A) The average~~Average~~ and maximum daily rate and volume of the fluid to be injected; and
 - B) The average~~Average~~ and maximum injection pressure;
 - 9) The proposed~~Proposed~~ formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of and other information on the injection formation and the confining zone;
 - 10) The proposed~~Proposed~~ stimulation program;
 - 11) The proposed~~Proposed~~ injection procedure;
 - 12) Schematic or other appropriate drawings of the surface and subsurface construction details of the well;
 - 13) The contingency~~Contingency~~ plan to cope with all shut-ins or well failures so as to prevent migration of fluids into any USDW;
 - 14) The plans~~Plans~~ (including maps) for meeting monitoring requirements of Section 730.168;
 - 15) For wells within the area of review that~~which~~ penetrate the injection zone or the confining zone but are not properly completed or plugged, the corrective action to be taken pursuant to~~under~~ Section 730.164;
 - 16) The construction~~Construction~~ procedures including a cementing and casing program, well materials specification and their life expectancy, logging procedures, deviation checks, and a drilling, testing, and coring program; and
 - 17) A demonstration, pursuant to Subpart G of 35 Ill. Adm. Code 704.~~Subpart G~~, that the applicant has the resources necessary to close, plug, or abandon the well and for post-closure care.
- b) Before the Agency grants approval for the operation of a Class I hazardous waste

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injection well, the owner or operator ~~must~~ shall submit, and the Agency ~~must~~ shall review, the following information, which must be included in the completion report:

- 1) All available logging and testing program data on the well;
 - 2) A demonstration of mechanical integrity pursuant to Section 730.168;
 - 3) The anticipated maximum pressure and flow rate at which the permittee will operate;
 - 4) The results of the injection zone and confining zone testing program as required in Section 730.170(a)(9);
 - 5) The actual injection procedure;
 - 6) The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone and with the materials used to construct the well;
 - 7) The calculated area of review based on data obtained during logging and testing of the well and the formation and, where necessary, revisions to the information submitted ~~pursuant to under~~ Section 730.170(a)(2) and ~~(a)~~(3); and
 - 8) The status of corrective action on wells identified in Section 730.170(a)(15).
- c) Prior to granting approval for the plugging and abandonment (i.e., closure) of a Class I hazardous waste injection well, the Agency ~~must~~ shall review the information required in Sections 730.171(a)(4) and 730.172(a).
- d) Any permit issued for a Class I hazardous waste injection well for disposal on the premises where the waste is generated must contain a certification by the owner or operator that the following facts are true:
- 1) The generator of the hazardous waste has a program to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

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- 2) Injection of the waste is that practicable method of disposal currently available to the generator ~~that~~which minimizes the present and future threat to human health and the environment.

BOARD NOTE: Derived from 40 CFR 146.70 (2005), ~~as added at 53 Fed. Reg. 28152, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.171 Closure

- a) Closure ~~plan~~Plan. The owner or operator of a Class I hazardous waste injection well ~~must~~shall prepare, maintain, and comply with a plan for closure of the well that meets the requirements of subsection (d) of this Section and is specified by permit condition. The obligation to implement the closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.
 - 1) The owner or operator ~~must~~shall submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.
 - 2) The owner or operator ~~must~~shall submit any proposed significant revision to the method of closure reflected in the plan for approval by the Agency no later than the date on which notice of closure is required to be submitted to the Agency ~~pursuant to~~under subsection (b) of this Section.
 - 3) The plan must assure financial responsibility, as required in 35 Ill. Adm. Code 704.189.
 - 4) The plan must include the following information:
 - A) The type and number of plugs to be used;
 - B) The placement of each plug including the evaluation of the top and bottom of each plug;
 - C) The type and grade and quantity of material to be used in plugging;

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- D) The method of placement of the plugs;
 - E) Any proposed test or measure to be made;
 - F) The amount, size, and location (by depth) of casing and any other materials to be left in the well;
 - G) The method and location where casing is to be parted, if applicable;
 - H) The procedure to be used to meet the requirements of subsection (d)(5) of this Section; and
 - I) The estimated cost of closure.
- 5) The Agency must modify a closure plan following the procedures of Subpart C of 35 Ill. Adm. Code 702.~~Subpart C~~.
- 6) An owner or operator of a Class I hazardous waste injection well who stops injection temporarily, may keep the well open if the conditions of subsection (a)(6)(A) and (a)(6)(B) of this Section are true of the owner or operator, subject to subsection (a)(6)(C) of this Section:
- A) Has received authorization from the Agency; and
 - B) Has described actions or procedures, satisfactory to the Agency, that the owner or operator will take actions to ensure that the well will not endanger USDWs during the period of temporary disuse. These actions and procedures must include compliance with the technical requirements applicable to active injection wells unless otherwise waived by permit condition.
 - C) For purposes of this subsection (a), submitting a description of actions or procedures for Agency authorization is in the nature of a permit application, and the owner or operator may appeal the Agency's decision to the Board.
- 7) The owner or operator of a well that has ceased operations for more than two years must~~shall~~ notify the Agency at least 30 days prior to resuming operation of the well.

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- b) Notice of intent to close. The owner or operator ~~must~~shall notify the Agency at least 60 days before closure of a well.
- c) Closure report. Within 60 days after closure, or at the time of the next quarterly report (whichever is less), the owner or operator ~~must~~shall submit a closure report to the Agency. If the quarterly report is due less than 15 days after completion of closure, then the report must be submitted within 60 days after closure. The report must be certified as accurate by the owner or operator and by the person who performed the closure operation (if other than the owner or operator). Such report must consist of either of the following documents:
- 1) A statement that the well was closed in accordance with the closure plan previously submitted and approved by the Agency; or
 - 2) Where actual closure differed from the plan previously submitted, a written statement specifying the differences between the previous plan and the actual closure.
- d) Standards for well closure.
- 1) Prior to closing the well, the owner or operator ~~must~~shall observe and record the pressure decay for a time specified by permit condition. The Agency ~~must~~shall analyze the pressure decay and the transient pressure observations conducted pursuant to Section 730.168(e)(1)(A) and determine whether the injection activity has conformed ~~to~~with predicted values.
 - 2) Prior to well closure, appropriate mechanical integrity testing must be conducted to ensure the integrity of that portion of the long string casing and cement that will be left in the ground after closure. Testing methods may include the following:
 - A) Pressure tests with liquid or gas;
 - B) Radioactive tracer surveys;
 - C) Noise, temperature, pipe evaluation, or cement bond logs; and
 - D) Any other test required by permit condition.

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- 3) Prior to well closure, the well must be flushed with a buffer fluid.
- 4) Upon closure, a Class I hazardous waste injection well must be plugged with cement in a manner that will not allow the movement of fluids into or between USDWs.
- 5) Placement of the cement plugs must be accomplished by one of the following means:
 - A) The Balance Method;
 - B) The Dump Bailer Method;
 - C) The Two-Plug Method; or
 - D) An alternative method, specified by permit condition, that will reliably provide a comparable level of protection.
- 6) Each plug used must be appropriately tagged and tested for seal and stability before closure is completed.
- 7) The well to be closed must be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by permit condition, prior to the placement of the cement plugsplug(s).

BOARD NOTE: Derived from 40 CFR 146.71 ~~(2005)~~, as added at 53 Fed. Reg. 28153, July 26, 1988.

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.172 Post-Closure Care

- a) The owner or operator of a Class I hazardous waste injection well mustshall prepare, maintain, and comply with a plan for post-closure care that meets the requirements of subsection (b) of this Section and is specified by permit condition. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the

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requirement is a condition of the permit.

- 1) The owner or operator ~~must~~shall submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.
 - 2) The owner or operator ~~must~~shall submit any proposed significant revision to the plan as appropriate over the life of the well, but no later than the date of the closure report required ~~pursuant to~~under Section 730.171(c).
 - 3) The plan must assure financial responsibility, as required in Section 730.173.
 - 4) The plan must include the following information:
 - A) The pressure in the injection zone before injection began;
 - B) The anticipated pressure in the injection zone at the time of closure;
 - C) The predicted time until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW;
 - D) ~~The predicted~~ Predicted position of the waste front at closure;
 - E) The status of any cleanups required ~~pursuant to~~under Section 730.164; and
 - F) The estimated cost of proposed post-closure care.
 - 5) At the request of the owner or operator, or on its own initiative, the Agency may modify the post-closure plan after submission of the closure report following the procedures in 35 Ill. Adm. Code 705.128.
- b) The owner or operator ~~must undertake each of the following activities~~shall:
- 1) ~~It must continue~~Continue and complete any cleanup action required ~~pursuant to~~under Section 730.164, if applicable;

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- 2) ~~It must continue~~Continue to conduct any groundwater monitoring required under the permit until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW. The Agency ~~must~~shall extend the period of post-closure monitoring if it determines in writing that the well may endanger a USDW;
 - 3) ~~It must submit~~Submit a survey plat to the local zoning authority designated by permit condition. The plat must indicate the location of the well relative to permanently surveyed benchmarks. A copy of the plat must be submitted to USEPA, Region ~~5~~V;
 - 4) ~~It must notify~~Notify the Illinois Department of Natural Resources, Office of Mines and Minerals, the State Department of Public Health, and any unit of local government authorized to grant permits under the Water Well Construction Code ~~[415 ILCS 30](Ill. Rev. Stat. ch. 111½ par. 116.111 et seq.)~~ in the area where the well is located as to the depth and location of the well and the confining zone; and
 - 5) ~~It must retain.~~Retain, for a period of three years following well closure, records reflecting the nature, composition, and volume of all injected fluids. Owners or operators ~~must~~shall deliver the records to the Agency at the conclusion of the retention period.
- c) Each owner of a Class I hazardous waste injection well, and the owner of the surface or subsurface property on or in which a Class I hazardous waste injection well is located, ~~must~~shall record a notation on the deed to the facility property or on some other instrument ~~that~~which is normally examined during title search that will in perpetuity provide any potential purchaser of the property the following information:
- 1) The fact that land has been used to manage hazardous waste;
 - 2) The names of the Illinois Department of Mines and Minerals and the local zoning authority with which the plat was filed, as well as the address of USEPA Region ~~5~~V ~~Environmental Protection Agency~~; and
 - 3) The type and volume of waste injected, the injection interval or intervals into which it was injected, and the period over which injection occurred.

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- d) In addition to the requirements stated in this Section, each owner of a Class I hazardous waste injection well must comply with any other State or federal law or local ordinance that requires the reporting of any potential environmental or physical impairment of real property to subsequent or prospective owner~~the Responsible Property Transfer Act of 1988 Ill. Rev. Stat. 1988 Supp. ch. 30, par. 901 et seq.~~.

BOARD NOTE: The Responsible Property Transfer Act of 1988 [765 ILCS 90] (RPTA) formerly required the disclosure and recordation of any environmental impairment of real property in Illinois. The General Assembly repealed that statute in P.A. 92-299, Section 5, effective August 9, 2001. Section 10 of that repeal provided for continued maintenance of documents prepared and recorded under RPTA prior to its repeal.

BOARD NOTE: Derived from 40 CFR 146.72 (2005), ~~as added at 53 Fed. Reg. 28152, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

Section 730.173 Financial Responsibility for Post-Closure Care

The owner or operator ~~must~~shall demonstrate and maintain financial responsibility for post-closure care by using a trust fund, surety bond, letter of credit, financial test, insurance, or corporate guarantee that meets the specifications for the mechanisms and instruments revised as appropriate to cover closure and post-closure care in Subpart G of 35 Ill. Adm. Code 704~~Subpart G~~. The amount of the funds available must be no less than the amount identified in Section 730.172(a)(4)(F). The obligation to maintain financial responsibility for post-closure care survives the termination of a permit or the cessation of injection. The requirement to maintain financial responsibility is enforceable whether or not the requirement is a condition of the permit.

BOARD NOTE: Derived from 40 CFR 146.73 (2005)~~as added at 53 Fed. Reg. 28154, July 26, 1988.~~

(Source: Amended at 31 Ill. Reg. 1281, effective December 20, 2006)

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- 1) Heading of the Part: Standards for Universal Waste Management
- 2) Code Citation: 35 Ill. Adm. Code 733
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
733.101	Amend
733.102	Amend
733.103	Amend
733.104	Amend
733.105	Amend
733.106	Repealed
733.108	Amend
733.109	Amend
733.110	Amend
733.113	Amend
733.114	Amend
733.115	Amend
733.116	Amend
733.117	Amend
733.118	Amend
733.120	Amend
733.130	Amend
733.132	Amend
733.133	Amend
733.134	Amend
733.135	Amend
733.136	Amend
733.137	Amend
733.138	Amend
733.139	Amend
733.140	Amend
733.150	Amend
733.151	Amend
733.152	Amend
733.153	Amend
733.154	Amend
733.155	Amend
733.156	Amend
733.160	Amend
733.161	Amend

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- | | |
|---------|-------|
| 733.162 | Amend |
| 733.170 | Amend |
| 733.180 | Amend |
| 733.181 | Amend |
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
 - 5) Effective Date: December 20, 2006
 - 6) Does this rulemaking contain an automatic repeal date? No
 - 7) Does this rulemaking contain incorporations by reference? Yes. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 720.111. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739 are included at that location. The amendments include references to incorporations by reference that are amended in this proceeding relating to Part 733. The amendments to the incorporations, however, are all corrective or stylistic, and none of those changes the incorporation in any substantive way.
 - 8) Statement of Availability: The adopted rulemaking, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7586; April 21, 2006
 - 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
 - 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415

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ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of 11/16/06, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 733 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 738, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, 2006, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 733 implement segments of the 8/5/05 and 10/13/05 federal amendments. The amendments incorporate the core elements of the Mercury-Containing Device Rule into the RCRA Subtitle C hazardous waste regulations. They further add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's 11/16/06 opinion and order 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.

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Persons interested in the details of those corrections and amendments should refer to the 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:
Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 733
STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

SUBPART A: GENERAL

Section

733.101	Scope
733.102	Applicability-: Batteries
733.103	Applicability-: Pesticides
733.104	Applicability-: Mercury-Containing Equipment Mercury Thermostats
733.105	Applicability-: Lamps:
733.106	Applicability-: Mercury-Containing Equipment (Repealed)
733.107	Applicability-: Mercury-Containing Lamps (Repealed)
733.108	Applicability-: Household and Conditionally Exempt Small Quantity Generator Waste
733.109	Definitions

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section

733.110	Applicability
733.111	Prohibitions
733.112	Notification
733.113	Waste Management
733.114	Labeling and Marking
733.115	Accumulation Time Limits
733.116	Employee Training
733.117	Response to Releases
733.118	Off-Site Shipments
733.119	Tracking Universal Waste Shipments
733.120	Exports

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section

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733.130	Applicability
733.131	Prohibitions
733.132	Notification
733.133	Waste Management
733.134	Labeling and Marking
733.135	Accumulation Time Limits
733.136	Employee Training
733.137	Response to Releases
733.138	Off-Site Shipments
733.139	Tracking Universal Waste Shipments
733.140	Exports

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section	
733.150	Applicability
733.151	Prohibitions
733.152	Waste Management
733.153	Accumulation Time Limits
733.154	Response to Releases
733.155	Off-site Shipments
733.156	Exports

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section	
733.160	Applicability
733.161	Off-Site Shipments
733.162	Tracking Universal Waste Shipments

SUBPART F: IMPORT REQUIREMENTS

Section	
733.170	Imports

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section	
733.180	General
733.181	Factors for Petitions to Include Other Wastes

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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 R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 944, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7650, effective April 15, 1998; amended in R99-15 at 23 Ill. Reg. 9502, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9874, effective June 20, 2000; amended in R05-8 at 29 Ill. Reg. 6058, effective April 13, 2005; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1352, effective December 20, 2006.

SUBPART A: GENERAL

Section 733.101 Scope

- a) This Part establishes requirements for managing the following:
 - 1) Batteries, as described in Section 733.102;
 - 2) Pesticides, as described in Section 733.103;
 - 3) Mercury-containing equipment, Thermostats, as described in Section 733.104; and
 - 4) Lamps, as described in Section 733.105; and
 - 5) Mercury-containing equipment, as described in Section 733.106.
BOARD NOTE: Subsection (a)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).
- b) This Part provides an alternative set of management standards in lieu of regulation pursuant to ~~under~~ 35 Ill. Adm. Code 702 through 705 and; 720 through ~~726, and~~ 728.
- c) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70

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[Fed. Reg. 59848 \(Oct. 13, 2005\).](#)

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.102 Applicability:— Batteries

- a) Batteries covered under this Part.
 - 1) The requirements of this Part apply to persons managing batteries, as described in Section 733.109, except those listed in subsection (b) of this Section.
 - 2) Spent lead-acid batteries that are not managed under [Subpart G of 35 Ill. Adm. Code 726](#); ~~Subpart G~~, are subject to management under this Part.
- b) Batteries not covered under this Part. The requirements of this Part do not apply to persons managing the following batteries:
 - 1) Spent lead-acid batteries that are managed under [Subpart G of 35 Ill. Adm. Code 726](#); ~~Subpart G~~.
 - 2) Batteries, as described in Section 733.109, that are not yet wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) of this Section; ~~or~~.
 - 3) Batteries, as described in Section 733.109, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in [Subpart C of 35 Ill. Adm. Code 721](#); ~~Subpart C~~.
- c) Generation of waste batteries.
 - 1) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).
 - 2) An unused battery becomes a waste on the date the handler decides to discard it.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.103 Applicability:— Pesticides

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- a) Pesticides covered under this Part. The requirements of this Part apply to persons managing pesticides, as described in Section 733.109, that meet the following conditions, except those listed in subsection (b) of this Section:
- 1) Recalled pesticides, as follows:
 - A) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under Section 19(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136q**(b)**), including, but not limited to those owned by the registrant responsible for conducting the recall; or
 - B) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant; or-
 - 2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.
- b) Pesticides not covered under this Part. The requirements of this Part do not apply to persons managing the following pesticides:
- 1) Recalled pesticides described in subsection (a)(1) of this Section, and unused pesticide products described in subsection (a)(2) of this Section, that are managed by farmers in compliance with 35 Ill. Adm. Code 722.170. (35 Ill. Adm. Code 722.170 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with 35 Ill. Adm. Code 721.107(b)(3).);
 - 2) Pesticides not meeting the conditions set forth in subsection (a) of this Section must be managed in compliance with the hazardous waste regulations in 35 Ill. Adm. Code 702 through 705 and, 720 through 726, ~~and~~ 728;
 - 3) Pesticides that are not wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) of this Section or those that are not wastes as described in subsection (d) of this Section; and

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- 4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is a waste (see subsection (b)(3) of this Section) and either it is listed in Subpart D of 35 Ill. Adm. Code 721.~~Subpart D~~ or it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.~~Subpart C~~.
- c) When a pesticide becomes a waste.
 - 1) A recalled pesticide described in subsection (a)(1) of this Section becomes a waste on the first date on which both of the following conditions apply:
 - A) The generator of the recalled pesticide agrees to participate in the recall; and
 - B) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).
 - 2) An unused pesticide product described in subsection (a)(2) of this Section becomes a waste on the date the generator decides to discard it.
 - d) Pesticides that are not wastes. The following pesticides are not wastes:
 - 1) Recalled pesticides described in subsection (a)(1) of this Section, provided that either of the following conditions exist:
 - A) The person conducting the recall has not made a decision to discard the pesticide (e.g., burn it for energy recovery). Until such a decision is made, the pesticide does not meet the definition of "solid waste" under 35 Ill. Adm. Code 721.102; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including those of this Part. This pesticide remains subject to the requirements of FIFRA; or
 - B) The person conducting the recall has made a decision to use a management option that, under 35 Ill. Adm. Code 721.102, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery) or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not

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subject to the hazardous waste requirements including this Part. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA; ~~and-~~

- 2) Unused pesticide products described in subsection (a)(2) of this Section, if the generator of the unused pesticide product has not decided to discard them (e.g., burn for energy recovery). These pesticides remain subject to the requirements of FIFRA.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.104 Applicability—: ~~Mercury-Containing Equipment~~ ~~Merecury Thermostats~~

- a) ~~Mercury-containing equipment~~~~Thermostats~~ covered under this Part. The requirements of this Part apply to persons managing ~~mercury-containing equipment,thermostats~~, as described in Section 733.109, except those listed in subsection (b) of this Section.
- b) ~~Mercury-containing equipment~~~~Thermostats~~ not covered under this Part. The requirements of this Part do not apply to persons managing the following ~~mercury-containing equipment~~~~thermostats~~:
 - 1) ~~Mercury-containing equipment~~~~Thermostats~~ that ~~is~~~~are~~ not yet ~~waste pursuant to~~~~wastes under~~ 35 Ill. Adm. Code 721. Subsection (c) of this Section describes when ~~mercury-containing equipment becomes waste;~~~~thermostats become wastes.~~
 - 2) ~~Mercury-containing equipment~~~~Thermostats~~ that ~~is~~~~are~~ not hazardous waste. ~~Mercury-containing equipment~~~~A thermostat~~ is a hazardous waste if it is a waste (see subsection (b)(1) of this Section) and it exhibits one or more of the characteristics identified in ~~Subpart C of~~ 35 Ill. Adm. Code 721 ~~or is listed in Subpart D of~~ 35 Ill. Adm. Code 721; ~~and-~~~~Subpart C.~~
 - 3) ~~Equipment and devices from which the mercury-containing components have been removed.~~
- c) Generation of waste ~~mercury-containing equipment~~~~thermostats~~.
 - 1) A used ~~mercury-containing equipment~~~~thermostat~~ becomes a waste on the

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date it is discarded ~~(e.g., sent for reclamation).~~

- 2) Unused mercury-containing equipment ~~An unused thermostat~~ becomes a waste on the date the handler decides to discard it.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.105 Applicability—: Lamps.

- a) Lamps covered under this Part. The requirements of this Part apply to persons that manage lamps, as described in Section 733.109, except those listed in subsection (b) of this Section.
- b) Lamps not covered under this Part. The requirements of this Part do not apply to persons that manage the following lamps:
 - 1) Lamps that are not yet wastes under 35 Ill. Adm. Code 721, as provided in subsection (c) of this Section; and.
 - 2) Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721. ~~Subpart C.~~
- c) Generation of waste lamps.
 - 1) A used lamp becomes a waste on the date it is discarded.
 - 2) An unused lamp becomes a waste on the date the handler decides to discard it.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.106 Applicability—: Mercury-Containing Equipment (Repealed)

- a) ~~Mercury containing equipment covered under this Part. The requirements of this Part apply to persons managing mercury containing equipment as described in Section 733.109, except those listed in subsection (b) of this Section.~~

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- b) ~~Mercury-containing equipment not covered under this Part. The requirements of this Part do not apply to persons managing the following mercury-containing equipment:~~
- 1) ~~Mercury-containing equipment that is not yet a waste under 35 Ill. Adm. Code 721. Subsection (c) of this Section describes when mercury-containing equipment becomes a waste.~~
 - 2) ~~Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in 35 Ill. Adm. Code 721. Subpart C.~~
- e) ~~Generation of waste mercury-containing equipment.~~
- 1) ~~Used mercury-containing equipment becomes a waste on the day it is discarded.~~
 - 2) ~~Unused mercury-containing equipment becomes a waste on the day the handler decides to discard it.~~

~~BOARD NOTE: This Section 733.106 was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Repealed at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.108 Applicability—: Household and Conditionally Exempt Small Quantity Generator Waste

- a) A person that manages any of the wastes listed below may, at its option, manage the waste under the requirements of this Part.
- 1) Household wastes that are exempt under 35 Ill. Adm. Code 721.104(b)(1) and which are also of the same type as the universal wastes defined at Section 733.109; or
 - 2) Conditionally exempt small quantity generator wastes that are exempt under 35 Ill. Adm. Code 721.105 and are also of the same type as the universal wastes defined at Section 733.109.

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- b) A person that commingles the wastes described in subsections (a)(1) and (a)(2) of this Section together with universal waste regulated under this Part ~~must~~shall manage the commingled waste under the requirements of this Part.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.109 Definitions

"Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

"Battery" means a device consisting of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Sections 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 through 136y).

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

"Lamp" or "universal waste lamp" is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infra-red regions of the electromagnetic spectrum. Common examples of universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this Section) that accumulates 5,000 kilograms or more total of

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universal waste (batteries, pesticides, mercury-containing equipment, or thermostats, lamps, or mercury-containing equipment, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000-kilogram limit is met or exceeded 5,000 kilograms or more total of universal waste is accumulated. BOARD NOTE: Mercury containing equipment was added to this definition of "large quantity handler of universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).

"Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function mercury switches and mercury relays and scientific instruments and instructional equipment containing mercury added during their manufacture.

BOARD NOTE: The definition of "mercury-containing equipment" was pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).

"Mercury containing lamp" means an electric lamp into which mercury is purposely introduced by the manufacturer for the operation of the lamp. Mercury-containing lamps include, but are not limited to, fluorescent lamps and high-intensity discharge lamps.

BOARD NOTE: The definition of "mercury-containing lamp" was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays and mercury contact relays. [415 ILCS 5/3.283]

BOARD NOTE: The definition of "mercury relay" was added pursuant to Section 3.283 of the Act [415 ILCS 5/3.283] (See P.A. 93-964, effective August 20, 2004).

"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury

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~~pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. [415 ILCS 5/3.284]~~

~~BOARD NOTE: The definition of "mercury switch" was added pursuant to Section 3.284 of the Act [415 ILCS 5/3.284] (See P.A. 93-964, effective August 20, 2004).~~

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

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under ~~section~~~~Section~~ 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA); (21 USC 321(v)), incorporated by reference in 35 Ill. Adm. Code 720.111;

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA ~~section~~~~Section~~ 512(j) (21 USC 360b(j)), incorporated by reference in 35 Ill. Adm. Code 720.111(c), to be an exempted new animal drug; or

It is an animal feed under FFDCA ~~section~~~~Section~~ 201(w) (21 USC 321(w)), incorporated by reference in 35 Ill. Adm. Code 720.111(c), that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 273.6 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug." This is very similar to the language of ~~section~~~~Section~~ 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); (7 USC 136(u)). The three exceptions, taken together, appear intended not to include as "pesticide" any material within the scope of federal Food and

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Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this Section) that does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, ~~or thermostats, lamps, or mercury-containing equipment~~, calculated collectively) at any time.

~~BOARD NOTE: Mercury containing equipment was added to this definition of "small quantity handler of universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with the requirements of Section 733.113(c)(2) or 733.133(c)(2).

"Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of this Part:

Batteries, as described in Section 733.102;

Pesticides, as described in Section 733.103;

Mercury-containing equipment, ~~Thermostats~~, as described in Section 733.104; and

Lamps, as described in Section 733.105; ~~and~~

~~Mercury containing equipment as described in Section 733.106.~~
~~BOARD NOTE: Mercury containing equipment was added to this definition of "universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

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The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Universal waste handler does not mean:

A person that treats (except ~~pursuant to~~ under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

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

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.110 Applicability

This Subpart **B** applies to small quantity handlers of universal waste (as defined in Section 733.109).

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.113 Waste Management

- a) Universal waste batteries. A small quantity handler of universal waste ~~must~~ shall manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

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- 1) A small quantity handler of universal waste ~~must~~shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;.
- 2) A small quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
 - A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or
 - G) Removing electrolyte from batteries; ~~and;~~
- 3) A small quantity handler of universal waste that removes electrolyte from batteries, or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed ~~in subsection (a)(2) of this Section above~~, ~~must~~shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in ~~Subpart C of 35 Ill. Adm. Code 721~~.~~Subpart C~~.
 - A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705 ~~and~~, 720 through ~~726, and~~ 728. The handler is considered the generator of the hazardous

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electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

- B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (~~non-hazardous nonhazardous~~) waste regulations.

BOARD NOTE: See generally the Act [\[415 ILCS 5\]](#) and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~non-hazardous nonhazardous~~ waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- b) Universal waste pesticides. A small quantity handler of universal waste ~~must~~shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
- 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
 - 2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1) of this Section;
 - 3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725.~~Subpart J~~, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or
 - 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- c) Universal waste ~~thermostats and~~mercury-containing equipment. A small quantity handler of universal waste ~~thermostats and~~mustshall manage universal waste ~~thermostats and~~mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

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- 1) A small quantity handler of universal waste must place in a container ~~shall contain~~ any universal waste ~~thermostat or~~ mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions ~~in a container~~. The container must be closed; must be structurally sound; must be compatible with the contents of the ~~device; thermostat or mercury-containing equipment,~~ and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.
- 2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste ~~thermostats or~~ mercury-containing equipment provided the handler follows each of the following procedures:
 - A) It removes and manages the ampules in a manner designed to prevent breakage of the ampules;
 - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
 - C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from ~~that~~ the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - F) It ensures that employees removing ampules are thoroughly

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familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

- G) It stores removed ampules in closed, non-leaking containers that are in good condition; and
- H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:

- A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and
- B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2) of this Section.

43) Required hazardous waste determination and further waste management.

- A) A small quantity handler of universal waste that removes mercury-containing ampules from ~~thermostats or~~ mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must ~~shall~~ determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.~~Subpart C~~:
 - i) Mercury or clean-up residues resulting from spills or leaks; or
 - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining ~~thermostat units or~~ mercury-containing equipment).
- B) If the mercury, residues, or other solid waste exhibits a

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characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 ~~and~~, 720 through ~~726, and~~ 728. The handler is considered the generator of the mercury, residues, or other waste and ~~must~~ manage it in compliance with ~~subject to~~ 35 Ill. Adm. Code 722.

- C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (~~non-hazardous nonhazardous~~) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~non-hazardous nonhazardous~~ waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Lamps. A small quantity handler of universal waste ~~must~~ manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste lamps ~~must~~ contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
 - 2) A small quantity handler of universal waste lamps ~~must~~ immediately clean up and place in a container any lamp that is broken, and the small quantity handler ~~must~~ place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and.

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- 3) Small quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:
- A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system ~~must~~shall not exceed 0.1 mg/m³ when measured on the basis of time weighted average over an ~~eight-hour~~8-hour period;
 - B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
 - i) Name and address of the handler;
 - ii) Estimated monthly amount of lamps crushed; and
 - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
 - C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code 722.13440~~CFR 262.34~~, and has available equipment necessary to comply with this requirement;
 - D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
 - F) The crushed lamps are stored in closed, non-leaking containers that

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are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

~~BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]. Additionally, mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.114 Labeling and Marking

A small quantity handler of universal waste ~~must~~shall label or mark the universal waste to identify the type of universal waste, as follows:

- a) Universal waste batteries (i.e., each battery) or a container in which the batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Batteries," "Waste Batteries," or "Used Batteries";
- b) A container (or multiple container package unit), tank, transport vehicle, or vessel in which recalled universal waste pesticides, as described in Section 733.103(a)(1), are contained must be labeled or marked clearly, as follows:
 - 1) The label that was on or accompanied the product as sold or distributed; and
 - 2) The words "Universal Waste - Pesticides" or "Waste - Pesticides";
- c) A container, tank, or transport vehicle, or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly, as follows:
 - 1) Pesticide labeling:
 - A) The label that was on the product when purchased, if still legible;
 - B) If using the labels described in subsection (c)(1)(A) of this Section is not feasible, the appropriate label as required under USDOT

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regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or

- C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and
- 2) The words "Universal Waste - Pesticides" or "Waste - Pesticides";
- d) Universal waste mercury-containing equipment and universal waste thermostat labeling:
- 1) Universal waste mercury-containing equipment (i.e., each device) or a container in which the equipment is contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."
- 2) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Mercury Thermostats"; or "Waste Mercury Thermostats"; or "Used Mercury Thermostats"; ~~and~~
- e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with one of the following phrases: "Universal Waste - Lamps"; "Waste Lamps" or "Used Lamps";
- f) ~~Mercury containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste – Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."~~
BOARD NOTE: Subsection (f) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

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Section 733.115 Accumulation Time Limits

- a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) of this Section~~below~~ are met.
- b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal.
- c) A small quantity handler of universal waste that accumulates universal waste must~~shall~~ be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:
 - 1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
 - 2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
 - 3) Maintaining an on-site inventory system that identifies the date each universal waste became a waste or was received;
 - 4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
 - 5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
 - 6) Any other method that clearly demonstrates the length of time that the

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universal waste has been accumulated from the date it became a waste or was received.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.116 Employee Training

A small quantity handler of universal waste mustshall inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.117 Response to Releases

- a) A small quantity handler of universal waste mustshall immediately contain all releases of universal waste and other residues from universal waste.
- b) A small quantity handler of universal waste mustshall determine whether any material resulting from the release is hazardous waste, and if so, mustshall manage the hazardous waste in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 and, 720 through ~~726, and~~ 728. The handler is considered the generator of the material resulting from the release and mustshall manage it in compliance with 35 Ill. Adm. Code 722.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.118 Off-Site Shipments

- a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and mustshall comply with the transporter requirements of ~~733~~.Subpart D of this Part while transporting the universal waste.
- c) If a universal waste being offered for off-site transportation meets the definition of hazardous ~~material~~materials under USDOT regulation 49 CFR 171.8

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(Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b)171 through 180, a small quantity handler of universal waste must~~shall~~ package, label, mark, and placard the shipment and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 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 through 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must~~shall~~ ensure that the receiving handler agrees to receive the shipment.
- e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must do~~shall~~ either of the following:
- 1) Receive the waste back when notified that the shipment has been rejected;⁵ or
 - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A small quantity handler of universal waste may reject a shipment containing universal waste or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it must~~shall~~ contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler must~~shall~~ perform either of the following actions:
- 1) Send the shipment back to the originating handler;⁵ or
 - 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

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- g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler ~~must~~shall immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.
- h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, ~~State~~state, or local solid (~~non-hazardous nonhazardous~~) waste regulations.

BOARD NOTE: See generally the Act [\[415 ILCS 5\]](#) and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~non-hazardous nonhazardous~~ waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.120 Exports

A small quantity handler of universal waste that sends universal waste to a foreign destination other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler is subject to the requirements of [Subpart H of 35 Ill. Adm. Code 722.](#)~~Subpart H~~) shall do the following:

- a) Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;
- b) Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in [Subpart E of 35 Ill. Adm. Code 722.](#)~~Subpart E~~; and
- c) Provide a copy of the USEPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

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Section 733.130 Applicability

This ~~Subpart C~~ ~~subpart~~ applies to large quantity handlers of universal waste (as defined in Section 733.109).

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.132 Notification

- a) Written notification of universal waste management.
 - 1) Except as provided in subsections (a)(2) and (a)(3) of this Section, a large quantity handler of universal waste ~~must~~~~shall~~ have sent written notification of universal waste management to the Agency, and received a USEPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.
 - 2) A large quantity handler of universal waste that has already notified USEPA or the Agency of its hazardous waste management activities and has received a USEPA Identification Number is not required to renotify ~~pursuant to~~~~under~~ this Section.
 - 3) A large quantity handler of universal waste that manages recalled universal waste pesticides, as described in Section 733.103(a)(1), and that has sent notification to USEPA or the Agency, as required by ~~federal~~ 40 CFR 165, is not required to notify for those recalled universal waste pesticides ~~pursuant to~~~~under~~ this Section.
- b) This notification must include the following:
 - 1) The universal waste handler's name and mailing address;
 - 2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
 - 3) The address or physical location of the universal waste management activities;

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- 4) A list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, ~~mercury-containing equipment~~ thermostats, or lamps ~~or mercury-containing equipment~~); and
- 5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time ~~and the types of universal waste (e.g., batteries, pesticides, thermostats, lamps or mercury-containing equipment) the handler is accumulating above this quantity.~~

BOARD NOTE: At 60 Fed. Reg. 25520-21 (May 11, 1995), USEPA explained that the generator or consolidation point may use USEPA Form 8700-12 for notification. (To obtain USEPA Form 8700-12 call the Agency at 217-782-6761.) USEPA further explained that it is not necessary for the handler to aggregate the amounts of waste at multiple non-contiguous sites for the purposes of the 5,000 kilogram determination.

~~BOARD NOTE: Mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.133 Waste Management

- a) Universal waste batteries. A large quantity handler of universal waste mustshall manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
 - 1) A large quantity handler of universal waste mustshall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
 - 2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

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- A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or
 - G) Removing electrolyte from batteries.
- 3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed in subsection (a)(2) of this Section ~~must above shall~~ determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. ~~Subpart C.~~
- A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 and, 720 through ~~726, and~~ 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.
 - B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous nonhazardous) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements

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apply.

- b) Universal waste pesticides. A large quantity handler of universal waste ~~must~~shall manage universal waste pesticides in a manner that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
- 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
 - 2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1) of this Section;
 - 3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725.300, ~~Subpart J~~, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or
 - 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- c) Universal waste ~~thermostats and~~ mercury-containing equipment. A large quantity handler of universal waste ~~must~~shall manage universal waste ~~thermostats and~~ mercury-containing equipment in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste must place in a container~~shall contain~~ any universal waste ~~thermostat or~~ mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions ~~in a container~~. The container must be closed; must be structurally sound; must be compatible with the contents of the device; thermostat and/or equipment, ~~and~~ must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

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- 2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste ~~thermostats or~~ mercury-containing equipment provided the handler follows each of the following procedures:
- A) It removes the ampules in a manner designed to prevent breakage of the ampules;
 - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
 - C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
 - G) It stores removed ampules in closed, non-leaking containers that are in good condition; and
 - H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- 3) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing

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holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:

- A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and
- B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2) of this Section.

43) Required hazardous waste determination and further waste management.

- A) A large quantity handler of universal waste that removes mercury-containing ampules from ~~thermostats or~~ mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must~~shall~~ determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~Subpart C~~:
 - i) Mercury or clean-up residues resulting from spills or leaks; or
 - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., ~~the remaining thermostat units or~~ mercury-containing equipment).
- B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 ~~and~~, 720 through ~~726, and~~ 728. The handler is considered the generator of the mercury, residues, or other waste and must manage it in compliance with ~~is subject to~~ 35 Ill. Adm. Code 722.
- C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (~~non-hazardous nonhazardous~~) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill.

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Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~non-hazardous nonhazardous~~ waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Lamps. A large quantity handler of universal waste ~~must~~shall manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste lamps ~~must~~shall contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;~~;~~
 - 2) A large quantity handler of universal waste lamps ~~must~~shall immediately clean up and place in a container any lamp that is broken, and the large quantity handler ~~must~~shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions;~~;~~
~~and~~;
 - 3) Large quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:
 - A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system ~~must~~shall not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;
 - B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

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- i) Name and address of the handler;
 - ii) Estimated monthly amount of lamps crushed; and
 - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
- C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of [35 Ill. Adm. Code 722.13440](#) ~~CFR 262.34~~, and has available equipment necessary to comply with this requirement;
- D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

~~BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]. Additionally, mercury containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.134 Labeling and Marking

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A large quantity handler of universal waste ~~must~~shall label or mark the universal waste to identify the type of universal waste, as follows:

- a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Batteries"; or "Waste Batteries"; or "Used Batteries.";
- b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Section 733.103(a)(1) are contained must be labeled or marked clearly as follows:
 - 1) The label that was on or accompanied the product as sold or distributed; and
 - 2) The words "Universal Waste - Pesticides" or "Waste - Pesticides.";
- c) A container, tank, or transport vehicle or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly, as follows:
 - 1) Pesticide labeling:
 - A) The label that was on the product when purchased, if still legible;
 - B) If using the labels described in subsection (c)(1)(A) of this Section is not feasible, the appropriate label as required ~~pursuant to~~under the USDOT regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or
 - C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the pesticide collection program; and
 - 2) The words "Universal Waste - Pesticides" or "Waste - Pesticides.";
- d) Universal waste mercury-containing equipment and universal waste thermostat labeling:

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- 1) Mercury-containing equipment (i.e., each device) or a container in which the equipment is contained must be labeled or marked clearly with any of the following phrases: "Universal Waste - Mercury-Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."
- 2d) A universal waste mercury-containing thermostatthermostats (i.e., each thermostat) or a container containing only universal waste mercury-containing or tank in which the thermostats mayare contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Mercury Thermostats,"; or "Waste Mercury Thermostats,"; or "Used Mercury Thermostats,"; and
- e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with any one of the following phrases: "Universal Waste - Lamps,"; "Waste Lamps" or "Used Lamps,".
- f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste - Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."
 BOARD NOTE: Subsection (f) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.135 Accumulation Time Limits

- a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) of this Sectionbelow are met.
- b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that

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such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

- c) A large quantity handler of universal waste ~~must~~~~shall~~ be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:
- 1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
 - 2) Marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
 - 3) Maintaining an on-site inventory system that identifies the date the universal waste being accumulated became a waste or was received;
 - 4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
 - 5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
 - 6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.136 Employee Training

A large quantity handler of universal waste ~~must~~~~shall~~ ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

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Section 733.137 Response to Releases

- a) A large quantity handler of universal waste ~~must~~shall immediately contain all releases of universal waste and other residues from universal waste.
- b) A large quantity handler of universal waste ~~must~~shall determine whether any material resulting from the release is hazardous waste, and if so, ~~must~~shall manage the hazardous waste in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 ~~and~~, 720 through ~~726, and~~ 728. The handler is considered the generator of the material resulting from the release, and is subject to 35 Ill. Adm. Code 722.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.138 Off-Site Shipments

- a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a large quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and ~~must~~shall comply with the transporter requirements of ~~733~~.Subpart D ~~of this Part~~ while transporting the universal waste.
- c) If a universal waste being offered for off-site transportation meets the definition of hazardous ~~material~~materials under USDOT regulation 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b)171 through 180, a large quantity handler of universal waste ~~must~~shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 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 through 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b);

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- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler ~~must~~shall ensure that the receiving handler agrees to receive the shipment.
- e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler ~~must do~~shall either of the following:
- 1) Receive the waste back when notified that the shipment has been rejected;~~;~~ or
 - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it ~~must~~shall contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler ~~must~~shall perform either of the following actions:
- 1) Send the shipment back to the originating handler;~~;~~ or
 - 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler ~~must~~shall immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.
- h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, ~~State, state~~ or local solid (~~non-hazardous nonhazardous~~) waste regulations.

BOARD NOTE: See generally the Act [\[415 ILCS 5\]](#) and 35 Ill. Adm. Code 807 through

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817 to determine whether additional facility siting, special waste, or ~~non-hazardous~~ ~~nonhazardous~~ waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.139 Tracking Universal Waste Shipments

- a) Receipt of shipments. A large quantity handler of universal waste ~~must~~~~shall~~ keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:
 - 1) The name and address of the originating universal waste handler or foreign shipper from ~~which~~~~whom~~ the universal waste was sent;
 - 2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps);
 - 3) The date of receipt of the shipment of universal waste.
- b) Shipments off-site. A large quantity handler of universal waste ~~must~~~~shall~~ keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:
 - 1) The name and address of the universal waste handler, destination facility, or foreign destination to ~~which~~~~whom~~ the universal waste was sent;
 - 2) The quantity of each type of universal waste sent (e.g, batteries, pesticides, thermostats, mercury-containing lamps); ~~and~~
 - 3) The date the shipment of universal waste left the facility.
- c) Record retention.
 - 1) A large quantity handler of universal waste ~~must~~~~shall~~ retain the records described in subsection (a) ~~of this Section~~~~above~~ for at least three years

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from the date of receipt of a shipment of universal waste.

- 2) A large quantity handler of universal waste ~~must~~shall retain the records described in subsection (b) ~~of this Section~~above for at least three years from the date a shipment of universal waste left the facility.

~~BOARD NOTE: Mercury containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).~~

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.140 Exports

A large quantity handler of universal waste that sends universal waste to a foreign destination other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722 must do the following~~Subpart H~~) shall:

- a) Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;
- b) Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722~~Subpart E~~; and
- c) Provide a copy of the USEPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section 733.150 Applicability

This Subpart D applies to universal waste transporters (as defined in Section 733.109).

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.151 Prohibitions

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- a) A universal waste transporter is prohibited from the following:
- 1) Disposing of universal waste; and
 - 2) Diluting or treating universal waste, except by responding to releases as provided in Section 733.154 or as provided in subsection (b).
- b) Transporters of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:
- 1) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system must~~shall~~ not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;
 - 2) The transporter must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
 - A) Name and address of the transporter;
 - B) Estimated monthly amount of lamps crushed; and
 - C) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (b)(1) of this Section;
 - 3) The transporter immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code 722.13440~~CFR 262.34~~, and has available equipment necessary to comply with this requirement;
 - 4) The transporter ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - 5) The transporter ensures that employees crushing lamps are thoroughly

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familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

- 6) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

~~BOARD NOTE: Subsection (b) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).~~

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.152 Waste Management

- a) A universal waste transporter ~~must~~^{shall} comply with all applicable USDOT 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 ~~through~~ 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b) for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in Section 720.111(b). For purposes of the USDOT regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of 35 Ill. Adm. Code 722. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the USDOT regulations.
- b) Some universal waste materials are regulated by the USDOT as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2 (Hazardous Materials Classes and Index to Hazard Class Definitions), incorporated by reference in Section 720.111(b). As universal shipments do not require a manifest under 35 Ill. Adm. Code 722, they may not be described by the USDOT proper shipping name "hazardous waste, (l) or (s),

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n.o.s." nor may the hazardous material's proper shipping name be modified by adding the word "waste."

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.153 Accumulation Time Limits

- a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.
- b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and ~~must~~ **shall** comply with the applicable requirements of ~~733~~.Subpart B or C of this Part while storing the universal waste.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.154 Response to Releases

- a) A universal waste transporter ~~must~~ **shall** immediately contain all releases of universal waste and other residues from universal wastes.
- b) A universal waste transporter ~~must~~ **shall** determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705 ~~and~~, 720 through ~~726, and~~ 728. If the waste is determined to be a hazardous waste, the transporter is subject to 35 Ill. Adm. Code 722.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.155 Off-site Shipments

- a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.
- b) If the universal waste being shipped off-site meets USDOT's definition of hazardous ~~material~~ **materials** under 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in Section 720.111**(b)**, the shipment must be properly described on a shipping paper in accordance with the applicable USDOT

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regulations under 49 CFR ~~part~~ 172 ([Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements](#)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.156 Exports

A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the transporter is subject to the requirements of [Subpart H of 35 Ill. Adm. Code 722](#).~~Subpart H~~) may not accept a shipment if the transporter knows the shipment does not conform to the USEPA Acknowledgment of Consent. In addition the transporter ~~must~~[shall](#) ensure the following:

- a) A copy of the USEPA Acknowledgment of Consent accompanies the shipment; and
- b) The shipment is delivered to the facility designated by the person initiating the shipment.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section 733.160 Applicability

- a) The owner or operator of a destination facility (as defined in Section 733.109) is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705, 724 through 726, and 728, and the notification requirement under section 3010 of RCRA ([42 USC 6930](#)).
- b) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled ~~must~~[shall](#) comply with 35 Ill. Adm. Code 721.106(c)(2).

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.161 Off-Site Shipments

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- a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination.
- b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, it ~~must~~shall contact the shipper to notify the shipper of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility ~~must~~shall perform either of the following actions:
- 1) Send the shipment back to the original shipper;~~;~~ or
 - 2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.
- c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility ~~must~~shall immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the shipper. The Agency will provide instructions for managing the hazardous waste.
- d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or ~~State~~state solid (~~non-hazardous nonhazardous~~) waste regulations.

BOARD NOTE: See generally the Act [\[415 ILCS 5\]](#) and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~non-hazardous nonhazardous~~ waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.162 Tracking Universal Waste Shipments

- a) The owner or operator of a destination facility ~~must~~shall keep a record of each

POLLUTION CONTROL BOARD

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shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

- 1) The name and address of the universal waste handler, destination facility, or foreign shipper from ~~which~~~~whom~~ the universal waste was sent;
 - 2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps); ~~and~~
 - 3) The date of receipt of the shipment of universal waste.
- b) The owner or operator of a destination facility ~~must~~~~shall~~ retain the records described in subsection (a) ~~of this Section~~~~above~~ for at least three years from the date of receipt of a shipment of universal waste.

~~BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).~~

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

SUBPART F: IMPORT REQUIREMENTS

Section 733.170 Imports

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this Part immediately after the waste enters the United States, as indicated in subsections (a) through (c) ~~of this Section~~~~below~~:

- a) A universal waste transporter is subject to the universal waste transporter requirements of Subpart D of this Part.
- b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of ~~733.~~Subpart B or C of this Part, as applicable.
- c) An owner or operator of a destination facility is subject to the destination facility requirements of Subpart E of this Part.

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- d) Persons managing universal waste that is imported from an OECD country as specified in 35 Ill. Adm. Code 722.158(a)(1) are subject to subsections (a) through (c) of this Section, in addition to the requirements of 35 Ill. Adm. Code 722.~~Subpart H.~~

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section 733.180 General

- a) Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment as follows:
- 1) If USEPA has already added the waste or category of waste to federal 40 CFR 273: by identical-in-substance rulemaking, under ~~Sections~~Section 7.2 and 22.4(a) of the Act [415 ILCS 5/7.2 and 22.4(a)], 35 Ill. Adm. Code 101 and 102, and 35 Ill. Adm. Code 720.120; or
 - 2) If USEPA has not added the waste or category of waste to federal 40 CFR 273: by general rulemaking, under Sections 22.4(b) and 27 of the Act [415 ILCS 5/22.4(b) and 27], 35 Ill. Adm. Code 101 and 102, this Subpart G, and 35 Ill. Adm. Code 720.120 and 720.123.

BOARD NOTE: The Board cannot add a hazardous waste or category of hazardous waste to this Part by general rulemaking until USEPA either authorizes the Illinois universal waste regulations or otherwise authorizes the Board to add new categories of universal waste. The Board may, however, add a waste or category of waste by identical-in-substance rulemaking.

- b) Petitions for identical-in-substance rulemaking.
- 1) Any petition for identical-in-substance rulemaking under subsection (a)(1) ~~of this Section~~above must include a copy of the Federal Register ~~notices~~notice(s) of adopted amendments in which USEPA promulgated the ~~additions~~addition(s) to federal 40 CFR 273. The Board will evaluate any petition for identical-in-substance rulemaking based on the Federal Register ~~notices~~notice(s).
 - 2) If the petitioner desires expedited Board consideration of the proposed

POLLUTION CONTROL BOARD

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amendments to this Part (i.e., adoption within one year of the date of the Federal Register notice), it must explicitly request expedited consideration and set forth the arguments in favor of such consideration.

- c) Petitions for general rulemaking.
- 1) To be successful using the general rulemaking procedure under subsection (a)(2) of this Section above, the petitioner must demonstrate to the satisfaction of the Board that each of the following would be true of regulation under the universal waste regulations of this Part:
 - A) It would be appropriate for the waste or category of waste;
 - B) It would improve management practices for the waste or category of waste; and
 - C) It would improve implementation of the hazardous waste program.
 - 2) The petition must include the information required by 35 Ill. Adm. Code 720.120(b). The petition should also address as many of the factors listed in Section 733.181 as are appropriate for the waste or waste category addressed in the petition.
 - 3) The Board will evaluate petitions for general rulemaking and grant or deny the requested relief using the factors listed in Section 733.181. The decision will be based on the weight of evidence showing that regulation under this Part would fulfill the requirements of subsection (c)(1) of this Section above.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

Section 733.181 Factors for Petitions to Include Other Wastes

- a) Hazardous waste listing or characteristics. The waste or category of waste, as generated by a wide variety of generators, is listed in Subpart D of 35 Ill. Adm. Code 721.Subpart D, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.Subpart C. (When a characteristic waste is added to the universal waste regulations of this Part by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in 35 Ill. Adm. Code

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720.110 and Section 733.109 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries.) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this Part;

- b) Generation by a wide variety of types of facilities. The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, or government organizations, as well as large industrial facilities);
- c) Generation by a large number of generators. The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;
- d) Collection systems to ensure close stewardship. Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;
- e) Waste management standards and risk to human health and the environment. The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to Sections 733.113, 733.133, and 733.152; or applicable USDOT requirements) would be protective of human health and the environment during accumulation and transport;
- f) Increased likelihood of diversion of waste from non-hazardous waste management systems. Regulation of the waste or category of waste pursuant to~~under~~ this Part will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer, or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA (42 USC 6921-6939(e));
- g) Improved implementation of the hazardous waste program. Regulation of the waste or category of waste pursuant to~~under~~ this Part will improve implementation of and compliance with the hazardous waste regulatory program; or

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h) Such other factors as may be appropriate.

(Source: Amended at 31 Ill. Reg. 1352, effective December 20, 2006)

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- 1) Heading of the Part: Hazardous Waste Injection Restrictions
- 2) Code Citation: 35 Ill. Adm. Code 738
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
738.106	New Section
738.122	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date of Amendments: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7640; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to this rule making? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

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NOTICE OF ADOPTED AMENDMENTS

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the Illinois Register, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 738 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 739, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 738 implement segments of the 10/13/06 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 720.104, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations. Another aspect of this proceeding is the end of consideration of the Part 738 rules as a segment of underground injection control regulations and the beginning of consideration of these rules as a segment of the hazardous waste regulations. Although USEPA codified corresponding 40 CFR 148 with the underground injection control (and other Safe Drinking Water Act (SDWA) regulations, the authority claimed for adoption of 40 CFR 148 is exclusively under RCRA Subtitle C, and not under SDWA. Thus, the Board has removed the citation to Section 13 of the Act [415 ILCS 5/13] from the authority note and redesignated Part 738 as Subchapter c hazardous waste regulations, rather than as Subchapter d underground storage tank and underground injection control regulations.

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NOTICE OF ADOPTED AMENDMENTS

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

- 16) Information and questions regarding these adopted amendments shall be directed to:
Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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~~SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND~~~~UNDERGROUND STORAGE TANK PROGRAMS~~

PART 738

HAZARDOUS WASTE INJECTION RESTRICTIONS

SUBPART A: GENERAL

Section

738.101	Purpose, Scope, and Applicability
738.102	Definitions
738.103	Dilution Prohibited as a Substitute for Treatment
738.104	Case-by-Case Extensions of an Effective Date
738.105	Waste Analysis
<u>738.106</u>	<u>Electronic Reporting</u>

SUBPART B: PROHIBITIONS ON INJECTION

Section

738.110	Waste-Specific Prohibitions: Solvent Wastes
738.111	Waste-Specific Prohibitions: Dioxin-Containing Wastes
738.112	Waste-Specific Prohibitions: California List Wastes
738.114	Waste-Specific Prohibitions: First Third Wastes
738.115	Waste-Specific Prohibitions: Second Third Wastes
738.116	Waste-Specific Prohibitions: Third Third Wastes
738.117	Waste-Specific Prohibitions: Newly-Listed Wastes
738.118	Waste-Specific Prohibitions: Newly-Listed and Identified Wastes

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section

738.120	Petitions to Allow Injection of a Prohibited Waste
738.121	Required Information to Support Petitions
738.122	Submission, Review, and Approval or Denial of Petitions
738.123	Review of Adjusted Standards
738.124	Termination of Approved Petition

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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 R89-2 at 14 Ill. Reg. 3059, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11948, effective July 9, 1990; amended in R90-14 at 15 Ill. Reg. 11425, effective July 24, 1991; amended in R92-13 at 17 Ill. Reg. 6190, effective April 5, 1993; amended in R93-6 at 17 Ill. Reg. 15641, effective September 14, 1993; amended in R95-4 at 19 Ill. Reg. 9501, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 238, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17486, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1695, effective January 19, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18576, effective December 7, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9161, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6835, effective April 22, 2002; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4053, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1407, effective December 20, 2006.

SUBPART A: GENERAL

Section 738.106 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1407, effective December 20, 2006)

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section 738.122 Submission, Review, and Approval or Denial of Petitions

- a) Any petition submitted to the Board, pursuant to Section 738.120(a) of this Part, must include the following:
 - 1) An identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;
 - 2) A waste analysis fully describing the chemical and physical characteristics

POLLUTION CONTROL BOARD

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of the subject wastes;

- 3) Such additional information as the Board requires to support the petition pursuant to~~under~~ Section 738.120 and Section 738.121 of this Part; and
- 4) This statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that 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) The Board will provide public notice and an opportunity for public comment in accordance with the procedures in Subpart D of 35 Ill. Adm. Code 104.
- c) An adjusted standard will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition (unless the adjusted standard is modified or reissued pursuant to Section 738.120(e) or (f)).
- d) Upon request by any petitioner who obtains an adjusted standard for a well pursuant to~~under~~ this Subpart C, the Agency must initiate and reasonably expedite the necessary procedures to issue or reissue a permit or permits for the hazardous waste well or wells covered by the adjusted standard for a term not to exceed 10~~ten~~ years.
- e) Each adjusted standard granted pursuant to~~under~~ this Part is subject to the following condition, whether or not this condition appears as part of the adjusted standard, and the Board will include this condition as part of each adjusted standard granted: "This adjusted standard does not affect the enforceability of any provisions of the Environmental Protection Act, Board rules, or other laws, except to the extent that its provisions expressly state otherwise."

BOARD NOTE: Derived from 40 CFR 148.22 (2005).

(Source: Amended at 31 Ill. Reg. 1407, effective December 20, 2006)

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- 1) Heading of the Part: Standards for the Management of Used Oil
- 2) Code Citation: 35 Ill. Adm. Code 739
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
739.110	Amend
739.113	New Section
739.181	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7646; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not

POLLUTION CONTROL BOARD

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apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in its 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 739 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 810, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 739 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 720.104 that incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois hazardous waste and underground injection control regulations.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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
AND TRANSFER FACILITIES

POLLUTION CONTROL BOARD

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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

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

POLLUTION CONTROL BOARD

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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.

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 ~~726~~, ~~and~~ 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

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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 ~~726, and~~ [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 exhibits a hazardous waste characteristic identified in Subpart C of 35 Ill. Adm. Code 721 and a mixture of used oil and hazardous waste

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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 726, and 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 705-720 through 726, and 728](#).

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- 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 [726](#), ~~and~~ [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:

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- 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 ~~726~~, ~~and~~ 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

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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.

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(Source: Amended at 31 Ill. Reg. 1413, effective December 20, 2006)

Section 739.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1413, effective December 20, 2006)

SUBPART I: DISPOSAL OF USED OIL

Section 739.181 Disposal

- a) Disposal of hazardous used oils. A used oil that is identified as a hazardous waste and which cannot be recycled in accordance with this Part must be managed in accordance with the hazardous waste management requirements of 35 Ill. Adm. Code 702, 703, and 720 through 726, ~~and~~ 728.
- b) Disposal of ~~non-hazardous~~ nonhazardous used oils. A used oil that is not a hazardous waste and cannot be recycled under this Part must be disposed of in accordance with the requirements of 35 Ill. Adm. Code 807 through 815 and 40 CFR 257 and 258.

(Source: Amended at 31 Ill. Reg. 1413, effective December 20, 2006)

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- 1) Heading of the Part: Solid Waste Disposal: General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 810
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
810.104	Amend
810.105	New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. The centralized listing of incorporations by reference is centrally located in 35 Ill. Adm. Code 810.104. All documents incorporated by reference for the purposes of 35 Ill. Adm. Code 810 through 814 are included at that location. The amendments include references to incorporations by reference that are amended in this proceeding. A principal amendment is the addition of an incorporation of the new federal Cross-Media Electronic Reporting Rule of 40 CFR 3 by reference, in specific, significant segments.
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7658; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to the rulemaking? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without

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deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 810 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 811, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 810 implement segments of the 10/13/05 federal amendments. The amendments add 35 Ill. Adm. Code 810.105, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois municipal solid waste landfill regulations.

Tables appear in the Board's 11/16/06 opinion and order that list numerous corrections and amendments that are not based on current federal amendments. The tables contain

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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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 810
SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section	
810.101	Scope and Applicability
810.102	Severability
810.103	Definitions
810.104	Incorporations by Reference
810.105	Electronic Reporting

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. 9090, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5028, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4130, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1425, effective December 20, 2006.

Section 810.104 Incorporations by Reference

- a) The Board incorporates the following material by reference:
 - 1) Code of Federal Regulations:

[40 CFR 3.2, as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\) \(How Does This Part Provide for Electronic Reporting?\), referenced in Section 810.105.](#)

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[40 CFR 3.3, as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\) \(What Definitions Are Applicable to This Part?\), referenced in Section 810.105.](#)

[40 CFR 3.10, as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\) \(What Are the Requirements for Electronic Reporting to EPA?\), referenced in Section 810.105.](#)

[40 CFR 3.2000, as added at 70 Fed. Reg. 59848 \(Oct. 13, 2005\) \(What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?\), referenced in Section 810.105.](#)

40 CFR 141.40 (2005) (Monitoring Requirements for Unregulated Contaminants).

Appendix II to 40 CFR 258 (2005), as corrected at 70 Fed. Reg. 44150 (August 1, 2005) (List of Hazardous and Organic Constituents).

- 2) American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036:

Auditing Standards – Current Text, August 1, 1990 Edition.

- 3) ASTM. American Society for Testing and Materials, 1976 Race Street, Philadelphia PA 19103 215-299-5585:

Method D2234-76, "Test Method for Collection of Gross Samples of Coal," approved 1976.

Method D3987-85, "Standard Test Method for Shake Extraction of Solid Waste with Water," approved 1985.

- 4) GASB. Government Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116:

Statement 18.

- 5) U.S. Army Corps of Engineers, Publication Department, 2803 52nd Ave.,

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Hyattville, Maryland 20781, 301-394-0081:

Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Cylinder (1986).

- 6) U.S. Government Printing Office, Washington, D.C. 20402, Ph: 202-783-3238:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, 1986; Revision 6, January 2005), as amended by Update I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1).

- b) This incorporation includes no later amendments or editions.

(Source: Amended at 31 Ill. Reg. 1425, effective December 20, 2006)

Section 810.105 Electronic Reporting

- a) Scope and Applicability.

- 1) The USEPA, the Board or the Agency may allow for the filing of electronic documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic filing of any report or document that must be submitted to the appropriate of the following:
- A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
- B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 810 through 815, to the extent the document is required by a provision derived from 40 CFR 258.
- 2) Electronic reporting under this Section can begin only after USEPA has first done as follows:

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- A) As to filing with USEPA, USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations in an electronic format; or
- B) As to filing with the State, USEPA has granted approval of any electronic document receiving system established by the Board or the Agency that meets the requirements of 40 CFR 3.2000, incorporated by reference in Section 810.104.
- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) of this Section:
- A) Any document submitted via facsimile;
- B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
- C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring approval for the filing of any types of documents as electronic documents, as described in subsection (a)(2)(B) of this Section, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and the date on which the Board or the Agency will begin to receive those submissions. In the event of cessation of USEPA approval or receiving any type of document as an electronic document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 3.1, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

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- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 810.104.
- c) Procedures for submission of electronic documents to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
- 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 810.104; and
 - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2) of this Section.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- d) Procedures for submission of electronic documents to the Board or the Agency.
- 1) The Board or the Agency may, but is not required to, establish procedures for the electronic submission of documents that meet the requirements of CFR 3.2 and 3.2000, incorporated by reference in Section 810.104. The Board or the Agency must establish any such procedures under the Administrative Procedure Act [5 ILCS 100/5].
 - 2) The Board or the Agency may not accept electronic documents under this Section until after USEPA has approved the procedures in writing, and the Board or the Agency has published a notice of such approval in the Illinois Register. Nothing in this subsection (d) limits the authority of the Board or the Agency under the Illinois Environmental Protection Act [415 ILCS 5] to accept documents filed electronically.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- e) Effects of submission of an electronic document.

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- 1) If a person who submits a document as an electronic document fails to comply with the requirements this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
- 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
- 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
- 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3.4 and 3.2000(c), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its filing, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
 - 1) The Administrative Procedure Act [5 ILCS 100];
 - 2) The Freedom of Information Act [5 ILCS 140];
 - 3) The State Records Act [5 ILCS 160];
 - 4) The Electronic Commerce Security Act [5 ILCS 175];
 - 5) The Environmental Protection Act [415 ILCS 5];
 - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and

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- 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted pursuant to subsection (c)(1) of this Section will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 3.2(c), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1425, effective December 20, 2006)

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- 1) Heading of the Part: Standards for New Solid Waste Landfills
- 2) Code Citation: 35 Ill. Adm. Code 811
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
811.112	Amend
811.113	New Section
811.326	Amend
811.715	Amend
811.716	Amend
811.719	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7668; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

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- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

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

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

- 15) Summary and purpose of the rulemaking: The amendments to Part 811 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 812, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 811 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 810.105, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois municipal solid waste landfill regulations.

Tables appear in the Board's 11/16/06 opinion and order 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.

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Persons interested in the details of those corrections and amendments should refer to the 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

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

312/814-6924

Request copies of the Board's opinion and order of 11/16/06, 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:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULINGPART 811
STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section

811.101	Scope and Applicability
811.102	Location Standards
811.103	Surface Water Drainage
811.104	Survey Controls
811.105	Compaction
811.106	Daily Cover
811.107	Operating Standards
811.108	Salvaging
811.109	Boundary Control
811.110	Closure and Written Closure Plan
811.111	Postclosure Maintenance
811.112	Recordkeeping Requirements for MSWLF Units
<u>811.113</u>	<u>Electronic Reporting</u>

SUBPART B: INERT WASTE LANDFILLS

Section

811.201	Scope and Applicability
811.202	Determination of Contaminated Leachate
811.203	Design Period
811.204	Final Cover
811.205	Final Slope and Stabilization
811.206	Leachate Sampling
811.207	Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section

811.301	Scope and Applicability
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811.302	Facility Location
811.303	Design Period
811.304	Foundation and Mass Stability Analysis
811.305	Foundation Construction
811.306	Liner Systems
811.307	Leachate Drainage System
811.308	Leachate Collection System
811.309	Leachate Treatment and Disposal System
811.310	Landfill Gas Monitoring
811.311	Landfill Gas Management System
811.312	Landfill Gas Processing and Disposal System
811.313	Intermediate Cover
811.314	Final Cover System
811.315	Hydrogeological Site Investigations
811.316	Plugging and Sealing of Drill Holes
811.317	Groundwater Impact Assessment
811.318	Design, Construction, and Operation of Groundwater Monitoring Systems
811.319	Groundwater Monitoring Programs
811.320	Groundwater Quality Standards
811.321	Waste Placement
811.322	Final Slope and Stabilization
811.323	Load Checking Program
811.324	Corrective Action Measures for MSWLF Units
811.325	Selection of remedy for MSWLF Units
811.326	Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section	
811.401	Scope and Applicability
811.402	Notice to Generators and Transporters
811.403	Special Waste Manifests
811.404	Identification Record
811.405	Recordkeeping Requirements
811.406	Procedures for Excluding Regulated Hazardous Wastes

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section	
811.501	Scope and Applicability

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811.502	Duties and Qualifications of Key Personnel
811.503	Inspection Activities
811.504	Sampling Requirements
811.505	Documentation
811.506	Foundations and Subbases
811.507	Compacted Earth Liners
811.508	Geomembranes
811.509	Leachate Collection Systems

SUBPART G: FINANCIAL ASSURANCE

Section	
811.700	Scope, Applicability and Definitions
811.701	Upgrading Financial Assurance
811.702	Release of Financial Institution
811.703	Application of Proceeds and Appeals
811.704	Closure and Postclosure Care Cost Estimates
811.705	Revision of Cost Estimate
811.706	Mechanisms for Financial Assurance
811.707	Use of Multiple Financial Mechanisms
811.708	Use of a Financial Mechanism for Multiple Sites
811.709	Trust Fund for Unrelated Sites
811.710	Trust Fund
811.711	Surety Bond Guaranteeing Payment
811.712	Surety Bond Guaranteeing Performance
811.713	Letter of Credit
811.714	Closure Insurance
811.715	Self-Insurance for Non-commercial Sites
811.716	Local Government Financial Test
811.717	Local Government Guarantee
811.718	Discounting
811.719	Corporate Financial Test
811.720	Corporate Guarantee
811.APPENDIX A	Financial Assurance Forms
811.ILLUSTRATION A	Trust Agreement
811.ILLUSTRATION B	Certificate of Acknowledgment
811.ILLUSTRATION C	Forfeiture Bond
811.ILLUSTRATION D	Performance Bond
811.ILLUSTRATION E	Irrevocable Standby Letter of Credit

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811.ILLUSTRATION F	Certificate of Insurance for Closure and/or Postclosure Care
811.ILLUSTRATION G	Operator's Bond Without Surety
811.ILLUSTRATION H	Operator's Bond With Parent Surety
811.ILLUSTRATION I	Letter from Chief Financial Officer
811.APPENDIX B	Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. 6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. 9107, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5044, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4136, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1435, effective December 20, 2006.

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section 811.112 Recordkeeping Requirements for MSWLF Units

The owner or operator of a MSWLF unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain the following information, even if such information is not required by 35 Ill. Adm. Code 812 or 813:

- a) Any location restriction demonstration required by Section 811.302(e) and 35 Ill. Adm. Code 812.109, 812.110, 812.303, and 812.305;
- b) Inspection records, training procedures, and notification procedures required by

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Section 811.323;

- c) Gas monitoring results and any remediation plans required by Section 811.310 and 811.311;
- d) Any MSWLF unit design documentation for placement of leachate or gas condensate in a MSWLF unit required by Section 811.107(m);
- e) Any demonstration, certification, monitoring results, testing, or analytical data relating to the groundwater monitoring program required by Sections 811.319, 811.324, 811.325, and 811.326 and 35 Ill. Adm. Code 812.317, 813.501, and 813.502;
- f) Closure and post-closure care plans and any monitoring, testing, or analytical data required by Sections 811.110 and 811.111, and 35 Ill. Adm. Code 812.114(h), 812.115, and 812.313; and
- g) Any cost estimates and financial assurance documentation required by Subpart G of this Part.

BOARD NOTE: The requirements of this Section are derived from 40 CFR 258.29 [\(2005\)](#)~~(1992)~~.

(Source: Amended at 31 Ill. Reg. 1435, effective December 20, 2006)

Section 811.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1435, effective December 20, 2006)

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section 811.326 Implementation of the corrective action program at MSWLF Units

- a) Based on the schedule established [pursuant to Section](#)~~under section~~ 811.325(d)

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for initiation and completion of corrective action, the owner or operator ~~must fulfill the following requirements~~ shall:

- 1) ~~It must establish~~ Establish and implement a corrective action groundwater monitoring program that ~~fulfills the following requirements~~:
 - A) At a minimum, ~~the program must meet~~ meets the requirements of an assessment monitoring program ~~pursuant to~~ under Section 811.319(b);
 - B) ~~The program must indicate~~ Indicates the effectiveness of the remedy; and
 - C) ~~The program must demonstrate~~ Demonstrates compliance with ~~groundwater~~ ground-water protection ~~standards~~ standard pursuant to subsection (e) of this Section.
- 2) ~~It must implement~~ Implement the remedy selected pursuant to Section 811.325.
- 3) ~~It must take~~ Take any interim measures necessary to ensure the adequate protection of human health and the environment. The interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to Section 811.325. The owner or operator ~~must~~ shall consider the following factors in determining whether interim measures are necessary:
 - A) The time required to develop and implement a final remedy;
 - B) Any actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
 - C) Any actual or potential contamination of drinking water supplies or sensitive ecosystems;
 - D) Any further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;
 - E) The weather conditions that may cause hazardous constituents to

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migrate or be released;

- F) Any risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and
- G) Any other situations that may pose threats to human health and the environment.
- b) If an owner or operator determines, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of Section 811.325(b) are not being achieved through the remedy selected, the owner or operator must fulfill the following requirements~~shall~~:
- 1) It must implement~~Implement~~ other methods or techniques that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination pursuant to~~under~~ subsection (c) of this Section.
 - 2) It must submit~~Submit~~ to the Agency, prior to implementing any alternative methods pursuant to subsection (b)(1) of this Section, an application for a significant modification to the permit describing the alternative methods or techniques and how they meet the standards of Section 811.325(b).
- c) If the owner or operator determines that compliance with the requirements of Section 811.325(b) cannot be practically achieved with any currently available methods, the owner or operator must fulfill the following requirements~~shall~~:
- 1) It must obtain~~Obtain~~ the certification of a qualified groundwater scientist or a determination by the Agency that compliance with requirements pursuant to~~under~~ Section 811.325(b) cannot be practically achieved with any currently available methods.
 - 2) It must implement~~Implement~~ alternative measures to control exposure of humans or the environment to residual contamination, as necessary to adequately protect human health and the environment.
 - 3) It must implement~~Implement~~ alternative measures for control of the sources of contamination, or for removal or decontamination of

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equipment, units, devices, or structures that fulfill the following requirements~~are~~:

- A) The measures are technically~~Technically~~ practicable; and
 - B) The measures are consistent~~Consistent~~ with the overall objective of the remedy.
- 4) It must submit~~Submit~~ to the Agency, prior to implementing the alternative measures in accordance with subsection (c) of this Section, an application for a significant modification to the permit justifying the alternative measures.
- 5) For purposes of this Section, a "qualified groundwater scientist" is a scientist or an engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.
- d) All solid wastes that are managed pursuant to a remedy required pursuant to~~under~~ Section 811.325, or under subsection (a)(3), must~~shall~~ be managed by the owner or operator in a manner that fulfills the following requirements:
- 1) That adequately protects~~is protective of~~ human health and the environment; and
 - 2) That complies with applicable requirements of Part 811.
- e) Remedies selected pursuant to Section 811.325 must~~shall~~ be considered complete when the following requirements are fulfilled:
- 1) The owner or operator complies with the groundwater quality standards established pursuant to~~under~~ Section 811.320 at all points within the plume of contamination that lie beyond the zone of attenuation established pursuant to Section 811.320;
 - 2) Compliance with the groundwater quality standards established pursuant

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~~to~~ Section 811.320 has been achieved by demonstrating that concentrations of the constituents monitored under the assessment monitoring program ~~pursuant to~~ Section 811.319(b) have not exceeded the groundwater quality standards for a period of three consecutive years using the statistical procedures and performance standards in Section 811.320(e). The Agency may specify an alternative time period during which the operator must demonstrate compliance with the groundwater quality standard(s). The Agency ~~must~~ specify such an alternative time period by considering the following factors:

- A) The extent and concentration of the ~~releases~~ release(s);
 - B) The behavior characteristics of the hazardous constituents in the ~~groundwater~~ ground-water;
 - C) The accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and
 - D) The characteristics of the ~~groundwater~~ ground-water; and
- 3) All actions required to complete the remedy have been satisfied.
- f) Within 14 days ~~after~~ of the completion of the remedy, the owner or operator ~~must~~ submit to the Agency an application for a significant modification of the permit including a certification that the remedy has been completed in compliance with the requirements of subsection (e) of this Section. The certification must be signed by the owner or operator and by a qualified groundwater scientist.
 - g) Upon Agency review and approval of the certification that the corrective action has been completed, in accordance with subsection (e) of this Section, the Agency ~~must~~ release the owner or operator from the financial assurance requirements for corrective action pursuant to Subpart G of this Part.

BOARD NOTE: Requirements of this Section are derived from 40 CFR 258.58 ~~(2005)~~(1992).

(Source: Amended at 31 Ill. Reg. 1435, effective December 20, 2006)

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SUBPART G: FINANCIAL ASSURANCE

Section 811.715 Self-Insurance for Non-commercial Sites

- a) Definitions. The following definitions are intended to assist in the understanding of this Part and are not intended to limit the meanings of terms in any way that conflicts with generally accepted accounting principles:

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

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

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

"Generally accepted accounting principles" means Auditing Standards – Current Text, incorporated by reference at 35 Ill. Adm. Code 810.104.

"Gross Revenue" means total receipts less returns and allowances.

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

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

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

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

"Tangible net worth" means tangible assets less liabilities; tangible assets to not include intangibles such as goodwill and rights to patents or royalties.

- b) Information to be filedFiled

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An owner or operator may satisfy the financial assurance requirements of this Part by providing the following:

- 1) Bond without surety promising to pay the cost estimate (subsection (c) of this Section).
 - 2) Proof that the owner or operator meets the gross revenue test (subsection (d) of this Section).
 - 3) Proof that the owner or operator meets the financial test (subsection (e) of this Section).
- c) Bond ~~without surety~~ Without Surety. An owner or operator utilizing self-insurance ~~must~~ shall provide a bond without surety on the forms specified in Appendix A, Illustration G. The owner or operator ~~must~~ shall promise to pay the current cost estimate to the Agency unless the owner or operator provides closure and postclosure care in accordance with the closure and postclosure care plans.
- d) Gross ~~revenue test~~ Revenue Test. The owner or operator ~~must~~ shall demonstrate that less than one-half of its gross revenues are derived from waste disposal operations. Revenue is "from waste disposal operations" if it would stop upon cessation of the owner or operator's waste disposal operations.
- e) Financial ~~test~~ Test
- 1) To pass the financial test, the owner or operator ~~must~~ shall meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) of this Section:
 - A) The owner or operator ~~must~~ shall have:
 - i) Two of the following three ratios: a ratio of total liabilities to net worth of less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities of greater than 0.1; or a ratio of current assets to current liabilities of greater than 1.5; and
 - ii) Net working capital and tangible net worth each at least six times the current cost estimate; and

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- iii) Tangible net worth of at least \$10 million; and
 - iv) Assets in the United States amounting to at least 90 percent of the owner's or operator's total assets and at least six times the current cost estimate.
- B) The owner or operator mustshall have:
- i) A current rating of AAA, AA, A or BBB for its most recent bond issuance as issued by Standard and Poor, or a rating of Aaa, Aa, A or Baa, as issued by Moody; and
 - ii) Tangible net worth at least six times the current cost estimate; and
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current cost estimate.
- 2) To demonstrate that it meets this test, the owner or operator mustshall submit the following items to the Agency:
- A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration I; and
 - B) A copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and
 - C) A special report from the owner or operator's independent certified public accountant to the owner or operator stating that:
 - i) The accountant has compared the data thatwhich 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

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- ii) In connection with that procedure, no matters came to the accountant's attention ~~that~~which caused the accountant to believe that the specified data should be adjusted.
- f) Updated Information.
- 1) After the initial submission of items specified in subsections (d) and (e) ~~of this Section~~, the owner or operator ~~must~~shall send updated information to the Agency within 90 days after the close of each succeeding fiscal year.
 - 2) If the owner or operator no longer meets the requirements of subsections (d) and (e) ~~of this Section~~, the owner or operator ~~must~~shall send notice to the Agency of intent to establish alternative financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the operator no longer meets the requirements.
- g) Qualified Opinions. If the opinion required by subsections (e)(2)(B) and (e)(2)(C) ~~of this Section~~ includes an adverse opinion or a disclaimer of opinion, the Agency ~~must~~shall disallow the use of self-insurance. If the opinion includes other qualifications, the Agency ~~must~~shall disallow the use of self-insurance if:
- 1) The qualifications relate to the numbers ~~that~~which are used in the gross revenue test or the financial test; and,
 - 2) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the gross revenue test or financial test.
- h) Parent Corporation. An owner or operator may satisfy the financial assurance requirements of this Part by demonstrating that a corporation which owns an interest in the owner or operator meets the gross revenue and financial tests. The owner or operator ~~must~~shall also provide a bond with the parent as surety (Appendix A, Illustration H).

(Source: Amended at 31 Ill. Reg. 1435, effective December 20, 2006)

Section 811.716 Local Government Financial Test

A unit of local government owner or operator that satisfies the requirements of subsections (a) through (c) of this Section may demonstrate financial assurance up to the amount specified in

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subsection (d) of this Section.

- a) Financial component.
 - 1) The unit of local government owner or operator must satisfy subsection (a)(1)(A) or (a)(1)(B) of this Section, as applicable:
 - A) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's, on all such general obligation bonds; or
 - B) The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement:
 - i) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and
 - ii) A ratio of annual debt service to total expenditures less than or equal to 0.20.
 - 2) The unit of local government owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].
 - 3) A unit of local government is not eligible to assure its obligations [pursuant to](#) ~~under~~ this Section if any of the following is true:
 - A) It is currently in default on any outstanding general obligation bonds;
 - B) It has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's;
 - C) It operated at a deficit equal to five percent or more of total annual

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revenue in each of the past two fiscal years; or

- D) It receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] auditing its financial statement as required ~~pursuant to~~ subsection (a)(2) of this Section. However, the Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems the qualification insufficient to warrant disallowance of use of the test.

- 4) Terms used in this Section are defined as follows:

"Cash plus marketable securities" is all the cash plus marketable securities held by the unit of local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

"Debt service" is the amount of principal and interest due on a loan in a given time period, typically the current year.

"Deficit" equals total annual revenues minus total annual expenditures.

"Total revenues" include revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by a unit of local government on behalf of a specific third party.

"Total expenditures" include all expenditures excluding capital outlays and debt repayment.

- b) Public notice component.

- 1) The unit of local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR), or prior to the initial receipt of waste at the facility, whichever is later.
- 2) Disclosure must include the nature and source of closure and post-closure

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care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years.

- 3) A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325.
 - 4) For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget.
 - 5) For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18, incorporated by reference in 35 Ill. Adm. Code 810.104, assures compliance with this public notice component.
- c) Recordkeeping and reporting requirements.
- 1) The unit of local government owner or operator must place the following items in the facility's operating record:
 - A) A letter signed by the unit of local government's chief financial officer that provides the following information:
 - i) It lists all the current cost estimates covered by a financial test, as described in subsection (d) of this Section;
 - ii) It provides evidence and certifies that the unit of local government meets the conditions of subsections (a)(1), (a)(2), and (a)(3) of this Section; and
 - iii) It certifies that the unit of local government meets the conditions of subsections (b) and (d) of this Section.
 - B) The unit of local government's independently audited year-end financial statements for the latest fiscal year (except for a unit of

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local government where audits are required every two years, where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant (CPA) or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

- C) A report to the unit of local government from the unit of local government's independent CPA or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] based on performing an agreed upon procedures engagement relative to the financial ratios required by subsection (a)(1)(B) of this Section, if applicable, and the requirements of subsections (a)(2), (a)(3)(C), and (a)(3)(D) of this Section. The CPA or Comptroller's report should state the procedures performed and the CPA or Comptroller's findings; and
 - D) A copy of the comprehensive annual financial report (CAFR) used to comply with subsection (b) of this Section or certification that the requirements of General Accounting Standards Board Statement 18, incorporated by reference in Section 810.104, have been met.
- 2) The items required in subsection (c)(1) of this Section must be placed in the facility operating record as follows:
 - A) In the case of closure and post-closure care, before November 27, 1997 or prior to the initial receipt of waste at the facility, whichever is later; or
 - B) In the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of Sections 811.319(d) and 811.325.
 - 3) After the initial placement of the items in the facility operating record, the unit of local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.
 - 4) The unit of local government owner or operator is no longer required to

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meet the requirements of subsection (c) of this Section when either of the following occurs:

- A) The owner or operator substitutes alternative financial assurance as specified in this Section; or
 - B) The owner or operator is released from the requirements of this Section in accordance with Section 811.326(g), 811.702(b), or 811.704(j) or (k)(6).
- 5) A unit of local government must satisfy the requirements of the financial test at the close of each fiscal year. If the unit of local government owner or operator no longer meets the requirements of the local government financial test it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Subpart, place the required submissions for that assurance in the operating record, and notify the Agency that the owner or operator no longer meets the criteria of the financial test and that alternative assurance has been obtained.
- 6) The Agency, based on a reasonable belief that the unit of local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the unit of local government at any time. If the Agency determines, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the unit of local government must provide alternative financial assurance in accordance with this Subpart.
- d) Calculation of Costs to Be Assured. The portion of the closure, post-closure, and corrective action costs that an owner or operator may assure ~~pursuant to~~ [under](#) this Section is determined as follows:
- 1) If the unit of local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the unit of local government's total annual revenue.
 - 2) If the unit of local government assures other environmental obligations through a financial test, including those associated with UIC facilities

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~~pursuant to~~ 35 Ill. Adm. Code 704.213, petroleum underground storage tank facilities ~~pursuant to~~ 40 CFR 280, PCB storage facilities ~~pursuant to~~ 40 CFR 761, and hazardous waste treatment, storage, and disposal facilities ~~pursuant to~~ 35 Ill. Adm. Code 724 and 725, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure ~~pursuant to~~ this Section. The total that may be assured must not exceed 43 percent of the unit of local government's total annual revenue.

- 3) The owner or operator must obtain an alternative financial assurance instrument for those costs that exceed the limits set in subsections (d)(1) and (d)(2) of this Section.

BOARD NOTE: Derived from 40 CFR 258.74(f) (2005).

(Source: Amended at 31 Ill. Reg. 1435, effective December 20, 2006)

Section 811.719 Corporate Financial Test

An MSWLF owner or operator ~~of an MSWLF~~ that satisfies the requirements of this Section may demonstrate financial assurance up to the amount specified in this Section as follows:

- a) Financial component.
 - 1) The owner or operator must satisfy one of the following three conditions:
 - A) A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; or
 - B) A ratio of less than 1.5 comparing total liabilities to net worth; or
 - C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.
 - 2) The tangible net worth of the owner or operator must be greater than:
 - A) The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including

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guarantees, covered by a financial test plus \$10 million except as provided in subsection (a)(2)(B) of this Section.

- B) \$10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements, provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.
 - 3) The owner or operator must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test as described in subsection (c) of this Section.
- b) Recordkeeping and reporting requirements.
- 1) The owner or operator must place the following items into the facility's operating record:
 - A) A letter signed by the owner's or operator's chief financial officer that includes the following:
 - i) All the current cost estimates covered by a financial test, including, but not limited to, cost estimates required for municipal solid waste management facilities [pursuant to](#) ~~under~~ this Part; cost estimates required for UIC facilities [pursuant to](#) ~~under~~ 35 Ill. Adm. Code 730, if applicable; cost estimates required for petroleum underground storage tank facilities [pursuant to](#) ~~under~~ 40 CFR 280, if applicable; cost estimates required for PCB storage facilities [pursuant to](#) ~~under~~ 40 CFR 761, if applicable; and cost estimates required for hazardous waste treatment, storage, and disposal facilities [pursuant to](#) ~~under~~ 35 Ill. Adm. Code 724 or 725, if applicable; and
 - ii) Evidence demonstrating that the firm meets the conditions of subsection (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Section and subsection (a)(2) and (a)(3) of this Section.

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- B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency ~~must~~shall evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters which form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator ~~must~~shall provide alternative financial assurance that meets the requirements of this Section.
- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (a)(1)(B) or (a)(1)(C) of this Section that are different from data in the audited financial statements referred to in subsection (b)(1)(B) of this Section or any other audited financial statement or data filed with the federal Security Exchange Commission, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and ~~must~~shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.
- D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations, as provided in subsection (a)(2)(B) of this Section, then the letter ~~must~~shall include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited

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financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least \$10 million plus the amount of any guarantees provided.

- 2) An owner or operator ~~must~~shall place the items specified in subsection (b)(1) of this Section in the operating record and notify the Agency in writing that these items have been placed in the operating record before the initial receipt of waste or before February 17, 1999, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Section 811.324.

BOARD NOTE: Corresponding 40 CFR 258.74(e)(2)(ii) provides that this requirement is effective "before the initial receipt of waste or before the effective date of the requirements of this Section (April 9, 1997 or October 9, 1997 for MSWLF units meeting the conditions of Sec. 258.1(f)(1)), whichever is later." The Board has instead inserted the date on which these amendments are to be filed and become effective in Illinois.

- 3) After the initial placement of items specified in subsection (b)(1) of this Section in the operating record, the owner or operator must annually update the information and place updated information in the operating record within 90 days following the close of the owner's or operator's fiscal year. The Agency ~~must~~shall provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (b)(1) of this Section.
- 4) The owner or operator is no longer required to submit the items specified in this subsection (b) or comply with the requirements of this Section when either of the following occurs:
 - A) It substitutes alternative financial assurance as specified in this Subpart G that is not subject to these recordkeeping and reporting requirements; or
 - B) It is released from the requirements of this Subpart G in accordance with Sections 811.700 and 811.706.

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- 5) If the owner or operator no longer meets the requirements of subsection (a) of this Section, the owner or operator ~~must~~shall obtain alternative financial assurance that meets the requirements of this Subpart G within 120 days following the close of the facility's fiscal year. The owner or operator ~~must~~shall also place the required submissions for the alternative financial assurance in the facility operating record and notify the Agency that it no longer meets the criteria of the financial test and that it has obtained alternative financial assurance.
- 6) The Agency may require the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation specified in subsection (b) of this Section at any time it has a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) of this Section. If the Agency finds that the owner or operator no longer meets the requirements of subsection (a) of this Section, the owner or operator ~~must~~shall provide alternative financial assurance that meets the requirements of this Subpart G.
- c) Calculation of costs to be assured. When calculating the current cost estimates for closure, post-closure care, corrective action, the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in this Section, the owner or operator ~~must~~shall include cost estimates required for municipal solid waste management facilities ~~pursuant to~~under this Part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test: obligations associated with UIC facilities ~~pursuant to~~under 35 Ill. Adm. Code 730; petroleum underground storage tank facilities ~~pursuant to~~under 40 CFR 280; PCB storage facilities ~~pursuant to~~under 40 CFR 761; and hazardous waste treatment, storage, and disposal facilities ~~pursuant to~~under 35 Ill. Adm. Code 724 or 725.

(Source: Amended at 31 Ill. Reg. 1435, effective December 20, 2006)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Information to be Submitted in a Permit Application
- 2) Code Citation: 35 Ill. Adm. Code 812
- 3) Section Number: Adopted Action:
812.117 New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7694; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Since the Notices of Proposed Amendments appeared in the April 21, 2006 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in its 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 812 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 813, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 812 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 810.105, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois municipal solid waste landfill regulations.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order in docket R06-16/R06-17/R06-18.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:
Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

Michael J. McCambridge

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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 AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULINGPART 812
INFORMATION TO BE SUBMITTED IN A PERMIT APPLICATION

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL LANDFILLS

Section

812.101	Scope and Applicability
812.102	Certification by Professional Engineer
812.103	Application Fees
812.104	Required Signatures
812.105	Approval by Unit of Local Government
812.106	Site Location Map
812.107	Site Plan Map
812.108	Narrative Description of the Facility
812.109	Location Standards
812.110	Surface Water Control
812.111	Daily Cover
812.112	Legal Description
812.113	Proof of Property Ownership and Certification
812.114	Closure Plans
812.115	Postclosure Care Plans
812.116	Closure and Postclosure Cost Estimates
812.117	Electronic Reporting

SUBPART B: ADDITIONAL INFORMATION REQUIRED
FOR INERT WASTE LANDFILLS

Section

812.201	Scope and Applicability
812.202	Waste Stream Test Results
812.203	Final Cover
812.204	Closure Requirements

SUBPART C: ADDITIONAL INFORMATION REQUIRED FOR PUTRESCIBLE
AND CHEMICAL WASTE LANDFILLS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Section	
812.301	Scope and Applicability
812.302	Waste Analysis
812.303	Site Location
812.304	Waste Shredding
812.305	Foundation Analysis and Design
812.306	Design of the Liner System
812.307	Leachate Drainage and Collection Systems
812.308	Leachate Management System
812.309	Landfill Gas Monitoring Systems
812.310	Gas Collection Systems
812.311	Landfill Gas Disposal
812.312	Intermediate Cover
812.313	Design of the Final Cover System
812.314	Description of the Hydrogeology
812.315	Plugging and Sealing of Drill Holes
812.316	Results of the Groundwater Impact Assessment
812.317	Groundwater Monitoring Program
812.318	Operating Plans

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15785, effective September 18, 1990; amended in R90-26 at 18 Ill. Reg. 12185, effective August 1, 1994; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1461, effective December 20, 2006.

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL LANDFILLS

Section 812.117 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 810.105.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1461, effective December 20, 2006)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Procedural Requirements for Permitted Landfills
- 2) Code Citation: 35 Ill. Adm. Code 813
- 3) Section Number: 813.113 Adopted Action: New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7699; April 21, 2006
- 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 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Since the Notices of Proposed Amendments appeared in the April 21, 2006 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in its 11/16/06 opinion and order, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 813 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, and 814, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 813 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 810.105, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois municipal solid waste landfill regulations.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:
Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

Michael J. McCambridge

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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 AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULINGPART 813
PROCEDURAL REQUIREMENTS FOR PERMITTED LANDFILLS

SUBPART A: GENERAL PROCEDURES

Section

813.101	Scope and Applicability
813.102	Delivery of Permit Application
813.103	Agency Decision Deadlines
813.104	Standards for Issuance of a Permit
813.105	Standards for Denial of a Permit
813.106	Permit Appeals
813.107	Permit No Defense
813.108	Term of Permit
813.109	Transfer of Permits
813.110	Adjusted Standards to Engage in Experimental Practices
813.111	Agency Review of Contaminant Transport Models
813.112	Research, Development, and Demonstration Permits for MSWLFs
813.113	Electronic Reporting

SUBPART B: ADDITIONAL PROCEDURES FOR MODIFICATION AND SIGNIFICANT
MODIFICATION OF PERMITS

Section

813.201	Initiation of a Modification or Significant Modification
813.202	Information Required for a Significant Modification of an Approved Permit
813.203	Specific Information Required for a Significant Modification to Obtain Operating Authorization
813.204	Procedures for a Significant Modification of an Approved Permit

SUBPART C: ADDITIONAL PROCEDURES FOR THE RENEWAL OF PERMITS

Section

813.301	Time of Filing
813.302	Effect of Timely Filing

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 813.303 Information Required for a Permit Renewal
813.304 Updated Groundwater Impact Assessment
813.305 Procedures for Permit Renewal

SUBPART D: ADDITIONAL PROCEDURES FOR INITIATION AND TERMINATION OF
TEMPORARY AND PERMANENT CLOSURE AND POSTCLOSURE CARE

Section

- 813.401 Agency Notification Requirements
813.402 Certification of Closure
813.403 Termination of the Permit

SUBPART E: CERTIFICATION AND REPORTS

Section

- 813.501 Annual Certification
813.502 Groundwater Reports and Graphical Results of Monitoring Efforts
813.503 Information to be Retained at or near the Waste Disposal Facility
813.504 Annual Report

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15814, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12409, effective July 19, 1993; expedited correction at 18 Ill. Reg. 7501, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12388, effective August 1, 1994; amended in R98-9 at 22 Ill. Reg. 11483, effective June 23, 1998; amended in R05-1 at 29 Ill. Reg. 5066, effective March 22, 2005; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1466, effective December 20, 2006.

SUBPART A: GENERAL PROCEDURES

Section 813.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 810.105.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

(Source: Added at 31 Ill. Reg. 1466, effective December 20, 2006)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Standards for Existing Landfills and Units
- 2) Code Citation: 35 Ill. Adm. Code 814
- 3) Section Number: 814.110 Adopted Action: New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27
- 5) Effective Date: December 20, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted 11/16/06 in consolidated docket R06-16/R06-17/R06-18, 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: 30 Ill. Reg. 7705; April 21, 2006
- 10) Has JCAR issued a Statement of Objection to the rulemaking? No
- 11) Differences between the proposal and the final version: A table that appears in the Board's 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18 summarizes the differences between the amendments adopted in that order and those proposed by the Board in its 4/6/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections or clarifying revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the IAPA [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to 1st Notice or to 2nd Notice review by JCAR.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Since the Notices of Proposed Amendments appeared in the 4/21/06 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in its 11/16/06 opinion and order, in consolidated docket R06-16/R06-17/R06-18, as indicated in item 11 above. See the 11/16/06 opinion and order for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and purpose of the rulemaking: The amendments to Part 814 are a single segment of the docket R06-16/R06-17/R06-18 rulemaking that also affects 35 Ill. Adm. Code 702, 703, 704, 705, 720, 721, 722, 723, 724, 725, 726, 727, 728, 730, 733, 738, 739, 810, 811, 812, and 813, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R06-16/R06-17/R06-18 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 4/6/06 opinion and order, proposing amendments in docket R06-16/R06-17/R06-18, which opinion and order is available from the address below.

Specifically, the amendments to Part 814 implement segments of the 10/13/05 federal amendments. The amendments add a cross-reference to the provision at 35 Ill. Adm. Code 810.105, which incorporates the federal Cross-Media Electronic Reporting Rule into the Illinois municipal solid waste landfill regulations.

Tables appear in the Board's 11/16/06 opinion and order 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 4/6/06 opinion and order.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:
Please reference consolidated docket R06-16/R06-17/R06-18 and direct inquiries to:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

312/814-6924

Request copies of the Board's 11/16/06 opinion and order, 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 AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULINGPART 814
STANDARDS FOR EXISTING LANDFILLS AND UNITS

SUBPART A: GENERAL REQUIREMENTS

Section	
814.101	Scope and Applicability
814.102	Compliance Date
814.103	Notification to Agency
814.104	Applications for Significant Modification of Permits
814.105	Effect of Timely Filing of Notification and Application for Significant Modification
814.106	Agency Action on Applications for Significant Modifications to Existing Permits
814.107	Compliance Dates for Existing MSWLF Units
814.108	Interim Permit Requirements for Existing MSWLF Units
814.109	Permit Requirements for Lateral Expansions at Existing MSWLF Units
814.110	Electronic Reporting

SUBPART B: STANDARDS FOR UNITS ACCEPTING INERT WASTE

Section	
814.201	Scope and Applicability
814.202	Applicable Standards

SUBPART C: STANDARDS FOR EXISTING UNITS ACCEPTING CHEMICAL OR PUTRESCIBLE WASTES THAT MAY REMAIN OPEN FOR MORE THAN SEVEN YEARS

Section	
814.301	Scope and Applicability
814.302	Applicable Standards

SUBPART D: STANDARDS FOR EXISTING UNITS ACCEPTING CHEMICAL AND PUTRESCIBLE WASTES THAT MUST INITIATE CLOSURE WITHIN SEVEN YEARS

Section	
---------	--

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 814.401 Scope and Applicability
814.402 Applicable Standards

SUBPART E: STANDARDS FOR EXISTING UNITS ACCEPTING INERT WASTE ONLY, OR ACCEPTING CHEMICAL AND PUTRESCIBLE WASTES THAT MUST INITIATE CLOSURE WITHIN TWO YEARS

- Section
814.501 Scope and Applicability
814.502 Standards for Operation and Closure

SUBPART F: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY LOW RISK WASTES FROM THE STEEL AND FOUNDRY INDUSTRIES THAT MAY REMAIN OPEN FOR MORE THAN SEVEN YEARS

- Section
814.601 Scope and Applicability
814.602 Applicable Standards

SUBPART G: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY LOW RISK WASTES FROM THE STEEL OR FOUNDRY INDUSTRIES THAT MUST INITIATE CLOSURE WITHIN SEVEN YEARS

- Section
814.701 Scope and Applicability
814.702 Applicable Standards

SUBPART H: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY POTENTIALLY USABLE STEEL OR FOUNDRY INDUSTRY WASTE, OR ACCEPTING ONLY LOW RISK STEEL OR FOUNDRY INDUSTRY WASTES THAT MUST INITIATE CLOSURE WITHIN TWO YEARS

- Section
814.801 Scope and Applicability
814.802 Standards for Operation and Closure

SUBPART I: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY POTENTIALLY USABLE STEEL OR FOUNDRY INDUSTRY WASTE THAT PLAN TO STAY OPEN FOR MORE THAN TWO YEARS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Section

814.901 Scope and Applicability
814.902 Standards for Operation and Closure

814.APPENDIX A Additional Requirements for Existing MSWLF Units and Lateral Expansions Operating Under Permits Issued Pursuant to 35 Ill. Adm. Code 807.

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15850, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1284, effective January 13, 1994; emergency amendment in R94-13 at 18 Ill. Reg. 8488, effective May 12, 1994, for a maximum of 150 days; amended in R90-26 at 18 Ill. Reg. 12471, effective August 1, 1994; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1472, effective December 20, 2006.

SUBPART A: GENERAL REQUIREMENTS

Section 814.110 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 810.105.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1472, effective December 20, 2006)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3) Section Number: 603.190 Adopted Action:
New
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: January 1, 2007
- 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 in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 30 Ill. Reg. 14260; September 1, 2006
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Several non-substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? Yes. A companion emergency rulemaking became effective August 21, 2006 at 30 Ill. Reg. 14371.
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and Purpose of Rulemaking: This adopted rulemaking authorizes the Board's equine testing laboratory to test for EPO antibodies, commonly referred to as blood doping. Racing Commissioners International has adopted a rule that prohibits the administration of EPO. There is no application for EPO in racehorses because it's a human drug for the treatment of anemia or acquired immune deficiency syndrome. The adopted rulemaking, in the event of a positive test for EPO, places the horse on the

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

steward's list and would exclude the horse from competition until further testing indicates that the horse has no EPO antibodies. No disciplinary action is taken against the trainer or owner until a confirmatory test has been developed.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601
Attn: Mickey Ezzo

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section

603.10	Pre-Race Saliva Tests
603.20	Racing Soundness Exam
603.30	Foreign Substances and Pharmaceutical Aids Banned
603.40	Twenty-four Hour Ban
603.50	Trainer Responsibility
603.55	Prima Facie Evidence
603.60	Permitted Use of Foreign Substances and Threshold Levels
603.70	Furosemide
603.80	Needles, Syringes and Injectables
603.90	Drugs, Chemicals and Prescription Items
603.100	Detention Barn
603.110	Test Samples
603.120	Referee Samples
603.130	Laboratory Findings and Reports
603.140	Distribution of Purses
603.150	Post Mortems
603.160	Penalties
603.170	Veterinarian's Records
603.180	Carbon Dioxide Tests
<u>603.190</u>	<u>Erythropoietin and Darbepoietin Antibody Testing Program</u>

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007.

Section 603.190 Erythropoietin and Darbepoietin Antibody Testing Program

A finding by the Illinois Racing Board Equine Testing Laboratory, or other Board-approved laboratory, that a pre-race or post-race sample taken from a horse entered to start in a race has high titers of antibodies against erythropoietin or darbepoietin, utilizing the anti-recombinant human EPO antibody test, shall establish that the horse is unfit to race in any subsequent race and shall result in the following actions by the Board:

- a) The stewards shall be notified of the name of the horse for placement on the Stewards' list. The horse shall not be entered or allowed to race in any subsequent race until the horse has tested negative for the antibodies of erythropoietin or darbepoietin. An owner or trainer whose horse has tested positive for high titers of erythropoietin or darbepoietin antibodies may not request the horse be retested until 21 days following the date of the initial positive test.
- b) All requests after the initial positive test for the retesting of a horse shall be in writing and directed to the Stewards, accompanied by a \$50 payment for administrative and testing costs. Following receipt of a timely request for retesting, the presentation of the horse at a permitted racetrack premises in the State of Illinois approved by the Stewards, and the receipt of the \$50 retesting fee, the Stewards shall direct the State Veterinarian to take a blood sample from the horse for the purpose of retesting.
- c) A horse shall not be subject to disqualification from the race, or from any share of the purse in the race, nor shall the trainer of the horse be subject to a penalty based solely upon a finding by the laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from that horse.
- d) A horse that tests positive with the anti-recombinant human EPO antibody test remains subject to the requirements of this Section despite being sold or otherwise transferred.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- e) The split sample testing provisions of Section 603.120 shall not be applicable to erythropoietin or darbepoietin antibody testing conducted pursuant to this Section.

(Source: Added at 31 Ill. Reg. 1478, effective January 1, 2007)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
310.50	Amendment
310.80	Amendment
310.100	Amendment
310.260	Amendment
310.280	Amendment
310.290	Amendment
310.295	New Section
310.410	Amendment
310.450	Amendment
310.490	Amendment
310.495	Amendment
310.500	Amendment
310.530	Amendment
310.540	Amendment
310.APPENDIX A TABLE J	Amendment
310.APPENDIX A TABLE Q	Amendment
310.APPENDIX A TABLE W	Amendment
310.APPENDIX A TABLE X	Amendment
310.APPENDIX B	Amendment
310.APPENDIX C	Amendment
310.APPENDIX D	Amendment
310.APPENDIX G	Amendment
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 20 ILCS 415/8a].
- 5) Effective Date of Amendments: January 1, 2007
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment is not expected to expire prior to the end of the 150-day period.
- 7) Date filed with the Index Department: December 29, 2006

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 8) This and other Pay Plan amendments are on file and available in the Division of Technical Services and Agency Training and Development of the Bureau of Personnel.
- 9) Reason for Emergency: The reason for the emergency amendments is to restore annual merit increases that were suspended effective July 1, 2003, provide the opportunity for annual merit bonuses, and provide a 3% adjustment to salary grade salaries. The restoration and provisions are in the public interest as much as the increases to the Illinois minimum wage delineated in Public Act 94-1072, to the state government bargaining unit rates provided in various state contracts, and to top state government officials' pay recommended by the Compensation Review Board.

The other language in these emergency amendments is from the proposed amendments whose first notice was published at 30 Ill. Reg. 15240 and 30 Ill. Reg. 16504. The only exception is the decision not to increase the midpoint and maximum salaries in the MC-20 or the maximum salary in the Senior Public Service Administrator range. Some of the language contained in the two proposed amendments is needed to be effective within the Pay Plan to fully implement the restoration and provisions noted above. At the recommendation of the Joint Committee on Administrative Rules staff, the Department of Central Management Services incorporated the proposed language into the emergency amendments.

- 10) A complete Description of the Subjects and Issues Involved: In the Table of Contents, the heading changes are to Section 310.290 removing "or Foreign Service", to Sections 310.450 and 310.540 including bonuses and to add the new Section 310.295 for foreign service rates.

In Section 310.50, the definition of "creditable service" references to Section 310.80 are corrected, the entrance salary becomes "entrance base salary" and "Superior Performance" is removed.

In Section 310.80(d), the January 1, 2007 effective date of the 3% adjustment increase to salary grade salaries is specified.

In Section 310.100, "out-of state assignment" is placed next to the other assignment pay treatments, the subsections are numbered to accommodate the placement, and in subsection (m) the hyphen is removed from "bi-lingual" to match the definition in 310.50.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

In Section 310.260, the 3% adjustment increase to the salary grade trainee rates and to the base salary for each salary grade employee without change in the employee's creditable service date effective January 1, 2007 are specified.

In Section 310.280, two designated rates are removed at the request of the agencies and as approved by the Governor. The annual salary of \$55,200 for the Administrative Assistant I, Position Number 00501-10-68-010-80-21, in the Department of Human Services, is removed effective August 24, 2006. The annual salary of \$123,060 for a Senior Public Service Administrator, Position Number 40070-33-20-000-00-61, in the Department of Healthcare and Family Services, is removed effective August 15, 2006.

In Section 310.290, foreign service information is removed. The Revenue Audit Supervisor title's out-of-state rate ranges are added. The maximum rates are increased by 17% in the out-of-state ranges where the classifications are otherwise assigned to the merit compensation system except that for the Senior Public Service Administrator or not assigned to a bargaining unit. Employees in positions assigned to and receiving out-of-state rates where the classifications are otherwise assigned to the merit compensation system or not assigned to a bargaining unit are eligible for the annual merit increases and bonuses whose procedures and guidechart are in Sections 310.450 and 310.540, respectively. Suspensions of adjustments are clarified.

In a new Section 310.295, foreign service rate information formerly in Section 310.290 is included. The maximum rates are increased by 17% in the foreign service ranges where the classifications are otherwise assigned to the merit compensation system or not assigned to a bargaining unit. Employees in positions assigned to and receiving foreign service rates where the classifications are otherwise assigned to the merit compensation system or not assigned to a bargaining unit are eligible for the annual merit increases and bonuses whose procedures and guidechart are in Sections 310.450 and 310.540, respectively. Suspensions of adjustments are clarified. The monthly exchange rate differential is now correctly labeled.

In Section 310.410, the locations of all titles with positions in the merit compensation system are clarified. Two new position classifications, State Mine Inspector-At-Large and Revenue Audit Supervisor are added to the Merit Compensation System with the proposed salary ranges, MC-11 and MC-12, respectively. The Civil Service Commission approved the classes effective June 1 and July 1, 2006, respectively.

In Section 310.450, the heading is changed to include the bonuses. The annual merit increases are restored and annual merit bonuses are added. Bonus is defined. The review

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

is properly named as defined in 310.500. The forms and guidechart are correctly identified.

In Section 310.490, the date in subsection (j) is removed, and when to seek approval for a salary after reinstatement in subsection (m) is clarified.

In Section 310.495, subsection (c) on salary adjustment is clarified.

In Section 310.500, the definitions of base salary, creditable service, entrance salary, midpoint salary, and performance review date are clarified.

In Section 310.530, the locations of the salary schedules for all titles with positions assigned to the merit compensation system and the guidechart are clarified.

In Section 310.540, the heading is changed to include the bonuses. The guidechart with no increases is given the July 1, 2003 effective date and a guidechart effective January 1, 2007 is provided.

In Section 310.Appendix A Table J, "TR" is explained as used for the Clerical Trainee title.

In Section 310.Appendix A Table Q, the bargaining unit, title codes, and Pay Plan codes are added to the table for consistency in the Pay Plan.

In Section 310.Appendix A Table W, the Corrections Academy Trainer title information is removed from the title table as the class was abolished by the Civil Service Commission effective May 1, 2006.

In Section 310.Appendix A Table X, the Child Welfare Supervisor title information is removed from the title table as the class was abolished by the Civil Service Commission effective July 1, 2006.

In Section 310.Appendix B, the position classifications assigned to the Salary Grade system are added in a title table. A rate table effective January 1, 2007 is added.

In Section 310.Appendix C, effective January 1, 2007 the maximum rates in the ranges assigned to medical administrator titles are increased by 17%.

In Section 310.Appendix D, effective January 1, 2007 the maximum rates in the merit compensation ranges, except for MC 20, are increased by 17% and consequently the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

midpoints are adjusted. The dash is replaced in the MC 20 designation with a space for consistency.

In Section 310.Appendix G, effective January 1, 2007 the maximum rates in the ranges assigned to broad-band titles, except the Senior Public Service Administrator title, are increased by 17%.

- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.50	Amendment	30 Ill. Reg. 15240, 9/29/06
310.100	Amendment	30 Ill. Reg. 15240, 9/29/06
310.280	Amendment	30 Ill. Reg. 15240, 9/29/06
310.290	Amendment	30 Ill. Reg. 15240, 9/29/06
310.295	New Section	30 Ill. Reg. 15240, 9/29/06
310.410	Amendment	30 Ill. Reg. 15240, 9/29/06
310.490	Amendment	30 Ill. Reg. 15240, 9/29/06
310.500	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX A TABLE J	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX A TABLE Q	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX A TABLE W	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX A TABLE X	Amendment	30 Ill. Reg. 15240, 9/29/06
310.APPENDIX B	Amendment	30 Ill. Reg. 15240, 9/29/06
310.290	Amendment	30 Ill. Reg. 16504, 10/20/06
310.APPENDIX C	Amendment	30 Ill. Reg. 16504, 10/20/06
310.APPENDIX D	Amendment	30 Ill. Reg. 16504, 10/20/06
310.APPENDIX G	Amendment	30 Ill. Reg. 16504, 10/20/06

- 12) Statement of Statewide Policy Objectives: These amendments to the Pay Plan affect only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.
- 13) Information and questions regarding these amendments shall be directed to:

Mr. Jason Doggett
 Acting Manager
 Compensation Section
 Division of Technical Services and Agency Training and Development
 Bureau of Personnel
 Department of Central Management Services

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

504 William G. Stratton Building
Springfield IL 62706

Telephone: 217/782-7964
Fax: 217/524-4570
CMS.PayPlan@Illinois.gov

- 14) Does this amendment require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section

- 310.20 Policy and Responsibilities
- 310.30 Jurisdiction
- 310.40 Pay Schedules
- 310.45 Comparison of Pay Grades or Salary Ranges Assigned to Classifications
- 310.50 Definitions

EMERGENCY

- 310.60 Conversion of Base Salary to Pay Period Units
- 310.70 Conversion of Base Salary to Daily or Hourly Equivalents
- 310.80 Increases in Pay

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- 310.90 Decreases in Pay
- 310.100 Other Pay Provisions

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- 310.110 Implementation of Pay Plan Changes
- 310.120 Interpretation and Application of Pay Plan
- 310.130 Effective Date
- 310.140 Reinstitution of Within Grade Salary Increases (Repealed)
- 310.150 Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section

- 310.205 Introduction
- 310.210 Prevailing Rate
- 310.220 Negotiated Rate
- 310.230 Part-Time Daily or Hourly Special Services Rate
- 310.240 Daily or Hourly Rate Conversion
- 310.250 Member, Patient and Inmate Rate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

310.260 Trainee Rate

EMERGENCY

310.270 Legislated and Contracted Rate

310.280 Designated Rate

EMERGENCY

310.290 Out-of-State ~~or Foreign Service~~ Rate

EMERGENCY

310.295 Foreign Service Rate

EMERGENCY

310.300 Educator Schedule for RC-063 and HR-010

310.310 Physician Specialist Rate

310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)

310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section

310.410 Jurisdiction

EMERGENCY

310.420 Objectives

310.430 Responsibilities

310.440 Merit Compensation Salary Schedule

310.450 Procedures for Determining Annual Merit Increases and Bonuses

EMERGENCY

310.455 Intermittent Merit Increase

310.456 Merit Zone (Repealed)

310.460 Other Pay Increases

310.470 Adjustment

310.480 Decreases in Pay

310.490 Other Pay Provisions

EMERGENCY

310.495 Broad-Band Pay Range Classes

EMERGENCY

310.500 Definitions

EMERGENCY

310.510 Conversion of Base Salary to Pay Period Units (Repealed)

310.520 Conversion of Base Salary to Daily or Hourly Equivalents

310.530 Implementation

EMERGENCY

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 310.540 Annual Merit Increase [and Bonus](#) Guidechart
[EMERGENCY](#)
- 310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)
- 310.APPENDIX A Negotiated Rates of Pay
- | | |
|---------------------------|---|
| 310.TABLE A | RC-104 (Laborers' – ISEA Local #2002) |
| 310.TABLE B | HR-200 (Department of Labor – Chicago, Illinois – SEIU)
(Repealed) |
| 310.TABLE C | RC-069 (Firefighters, AFSCME) (Repealed) |
| 310.TABLE D | HR-001 (Teamsters Local #726) |
| 310.TABLE E | RC-020 (Teamsters Local #330) |
| 310.TABLE F | RC-019 (Teamsters Local #25) |
| 310.TABLE G | RC-045 (Automotive Mechanics, IFPE) |
| 310.TABLE H | RC-006 (Corrections Employees, AFSCME) |
| 310.TABLE I | RC-009 (Institutional Employees, AFSCME) |
| 310.TABLE J | RC-014 (Clerical Employees, AFSCME) |
| EMERGENCY | |
| 310.TABLE K | RC-023 (Registered Nurses, INA) |
| 310.TABLE L | RC-008 (Boilermakers) |
| 310.TABLE M | RC-110 (Conservation Police Lodge) |
| 310.TABLE N | RC-010 (Professional Legal Unit, AFSCME) |
| 310.TABLE O | RC-028 (Paraprofessional Human Services Employees, AFSCME) |
| 310.TABLE P | RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE) |
| 310.TABLE Q | RC-033 (Meat Inspectors, IFPE) |
| EMERGENCY | |
| 310.TABLE R | RC-042 (Residual Maintenance Workers, AFSCME) |
| 310.TABLE S | HR-012 (Fair Employment Practices Employees, SEIU)
(Repealed) |
| 310.TABLE T | HR-010 (Teachers of Deaf, IFT) |
| 310.TABLE U | HR-010 (Teachers of Deaf, Extracurricular Paid Activities) |
| 310.TABLE V | CU-500 (Corrections Meet and Confer Employees) |
| 310.TABLE W | RC-062 (Technical Employees, AFSCME) |
| EMERGENCY | |
| 310.TABLE X | RC-063 (Professional Employees, AFSCME) |
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| 310.TABLE Y | RC-063 (Educators, AFSCME) |
| 310.TABLE Z | RC-063 (Physicians, AFSCME) |
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310.TABLE AB	VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)
310.APPENDIX B	Schedule of Salary Grade Pay Grades – Monthly Rates of Pay <u>EMERGENCY</u>
310.APPENDIX C	Medical Administrator Rates <u>EMERGENCY</u>
310.APPENDIX D	Merit Compensation System Salary Schedule <u>EMERGENCY</u>
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule <u>EMERGENCY</u>

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867,

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effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991;

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corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at

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19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days;

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amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; preemptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27

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Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; preemptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; preemptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; preemptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; preemptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; preemptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; preemptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; preemptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; preemptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; preemptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; preemptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439,

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effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; preemptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; preemptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days.

SUBPART A: NARRATIVE

Section 310.50 Definitions**EMERGENCY**

The following definitions of terms are for purposes of clarification only. They affect the Schedule of Rates (Subpart B), Negotiated Rates of Pay (Appendix A), and the Schedule of Salary Grade Pay Grades - Monthly Rates of Pay (Appendix B). Section 310.500 contains definitions of terms applying specifically to the Merit Compensation System.

"Adjustment in Salary" – A change in salary rate occasioned by a previously committed error or oversight, or required in the best interest of the State as defined in Sections 310.80 and 310.90.

"Base Salary" – A dollar amount of pay specifically designated in the Schedule of Salary Grade Pay Grades - Monthly Rates of Pay (Appendix B) or Schedule of Rates (Subpart B). Base salary does not include commission, incentive pay, bilingual pay, longevity pay, overtime pay, shift differential pay or deductions for time not worked.

"Bilingual Pay" – The dollar amount per month, or percentage of the employee's monthly base salary, paid in addition to the employee's base salary when the individual position held by the employee has a job description that requires the use of sign language, Braille, or another second language (e.g., Spanish), or that requires the employee to be bilingual.

"Comparable Classes" – Two or more classes that are in the same pay grade.

"Creditable Service" – All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last salary increase that was at least equivalent to a full step. A new creditable service date will follow an increase of a step or more except for the following actions:

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A reevaluation resulting in a salary increase less than a step in the former pay grade.

Reallocation resulting in a salary increase less than a step increase in the former pay grade.

Adjustments as provided for in Section 310.80(e)(f) that are approved to correct errors or oversights. (A new creditable service date will follow Section 310.80(e)(f) adjustments in the best interest of the agency, unless the Director of Central Management Services determines the change in creditable service date to be inequitable.)

"Demotion" – The assignment for cause of an employee to a vacant position in a class in a lower pay grade than the former class.

"Differential" – The additional compensation added to the base salary of an employee resulting from conditions of employment imposed on him/her during normal schedule of work.

"Entrance Base Salary" – The initial base salary assigned to an employee upon entering State service.

"Hourly Pay Grade" – The designation for hourly negotiated pay rates is "H".

"In Between Pay Grade" – The designation for negotiated pay rates in between pay grades is ".5".

"In-hiring Rate" – An in-hiring rate is a minimum rate/step for a class that is above the normal minimum of the range, as approved by the Director of Central Management Services after a review of competitive market starting rates for similar classes.

"Pay Grade" – The numeric designation used for an established set of steps or salary range.

"Pay Plan Code" – The designation used in assigning a specific salary rate based on a variety of factors associated with the position. Pay Plan Codes used in the Pay Plan are:

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- 7 = Salary Grade regular pension formula rate
- 8 = Salary Grade alternative pension formula rate
- 9 = Salary Grade maximum-security institution rate
- B = Negotiated regular pension formula rate for the State of Illinois
- E = Educator title AFSCME negotiated 12-month regular pension formula rate for the State of Illinois
- J = Negotiated regular pension formula rate for states other than Illinois, California or New Jersey
- L = Educator title AFSCME negotiated 12-month alternative pension formula rate for the State of Illinois
- M = Educator title AFSCME negotiated 9-month regular pension formula rate at the Illinois School for the Visually Impaired
- N = Educator title Illinois Federation of Teachers negotiated 9-month regular pension formula rate for the Illinois School for the Deaf
- O = Educator title AFSCME negotiated 9-month regular pension formula rate at the Illinois Center for Rehabilitation and Education-Roosevelt
- P = Educator title AFSCME negotiated 12-month maximum-security institution rate for the State of Illinois
- Q = Negotiated alternative pension formula rate for the State of Illinois
- S = Negotiated maximum-security institution rate for the State of Illinois
- U = Negotiated regular pension formula rate for the state of California or New Jersey

"Promotion" – The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher pay grade than the former class.

"Reallocation" – The change in the classification of a position resulting from significant changes in assigned duties and responsibilities.

"Reclassification" - The assignment of a position or positions to a different classification based on creation of a new classification or the revision of existing class specification, and approved by the Civil Service Commission.

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"Reevaluation" – The assignment of a different pay grade to a class based upon change in relation to other classes or to the labor market.

"Salary Grade" – The system of pay practices applied to specific positions or employees not represented by a bargaining unit, and not in the Merit Compensation System, which includes Broad-Band positions.

"Salary Range" – The dollar value represented by Steps 1c through 8 of a pay grade assigned to a class title.

"Satisfactory Performance Increase" – An upward revision in the base salary from one designated step to the next higher step in the pay grade for that class as a result of having served the required amount of time at the former rate with not less than a satisfactory level of competence. (Satisfactory level of competence shall mean work, the level of which, in the opinion of the agency head, is above that typified by the marginal employee.)

~~"Superior Performance" – Performance characterized by work results substantially above a satisfactory level.~~

"Transfer" – The assignment of an employee to a vacant position having the same pay grade.

"Work Year" – That period of time determined by the agency and filed with the Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.80 Increases in Pay**EMERGENCY**

Except as otherwise provided for in this Section, for employees occupying positions in classes that are paid in conformance with the Schedule of Negotiated Rates (Appendix A) and the Schedule of Salary Grade Pay Grades - Monthly Rates of Pay (Appendix B), increases shall be granted as follows and will become effective the first day of the pay period following the date of approval:

- a) Satisfactory Performance Increase –

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- 1) Each employee who has not attained Step 8 of the relevant pay grade, and whose level of performance has been at a satisfactory level of competence, shall be successively advanced in pay to the next higher step in the pay grade after one year of creditable service in the same class. Step increases are suspended for non-union positions and employees.
 - 2) A satisfactory performance increase shall become effective on the first day of the month within which the required period of creditable service is reached.
 - 3) No satisfactory performance increase may be given after the effective date of separation.
- b) Withholding Satisfactory Performance Increase – As an inducement toward attainment of satisfactory level of competence, satisfactory performance increases may be withheld from the employee who has not achieved a satisfactory level of performance. Such action must be supported by:
- 1) A performance record showing less than satisfactory performance. This must be prepared by the appropriate supervisor, discussed with the employee and approved by the agency head prior to the date the increase would otherwise become effective. The performance record will not be invalidated by refusal of an employee to sign. In such cases, an explanatory comment shall be made on the record by the supervisor. This record will be preserved by the agency.
 - 2) Notice of withholding of satisfactory performance increases to the Department of Central Management Services – It shall be reported upon completion of action required by subsection (b)(1), but not later than the submission of the payroll reflecting the denial of the increase.
- c) Redetermination – A satisfactory performance increase previously withheld shall be granted when the cause for withholding has been eliminated. Redetermination must be made at least annually. In such cases the increases will be effective the first day of the month following date of approval and will be preceded by the preparation and filing of a Performance Record within the agency indicating the attainment of satisfactory level of competence.
- d) Other Pay Increases –

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- 1) Promotion and Reallocation –
 - A) Normally, upon promotion or reallocation, an employee shall be advanced to the lowest step in the new grade that represents at least a full step increase in the former grade. When an employee is promoted from Step 8, the employee shall be paid at the lowest step rate in the new range that results in an increase equal to at least 3%. To compute this, add 3% to the employee's current rate at Step 8 (then include longevity if the employee is receiving an increased rate based on longevity). Then place the employee on the lowest step in the new range that is at least equivalent to that amount.
 - B) Any deviation requires prior written approval of the Director of Central Management Services. In determining the appropriateness of a request for a special salary treatment by an employing agency, the Director of Central Management Services will consider whether the need for the special salary treatment is substantial, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request.
- 2) Reevaluation – If a higher pay grade is assigned to a class, the employee occupying the position in the class shall be advanced to the lowest step in the new grade that represents an increase in pay. If an employee becomes eligible for a satisfactory performance increase as a result of the reevaluation, a one-step increase will be granted immediately.
- 3) Separation and Subsequent Appointment – Upon separation from a position of a given class and appointment within four calendar days to a position in a higher pay grade, an increase shall be given under the conditions and requirements applicable to promotions.
- 4) Reclassification – If the class to which the position is being moved has a higher pay grade, the employee's base salary is advanced to the salary in the new pay grade that represents the least increase in pay. If this new salary is less than the difference between Step 7 and Step 8 in the previous pay grade and the employee has been paid the base salary in Step 8 of the previous pay grade for longer than one year, the new salary is advanced

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one step from the salary in the new pay grade representing the least increase.

- e) Adjustment – An employee may receive an upward adjustment in his/her base salary for the purpose of correcting a previous error, oversight or when the best interest of the agency and the State of Illinois will be served. Adjustments must have the prior approval of the Director of Central Management Services. In determining the appropriateness of a request for a salary adjustment by an employing agency, the Director of Central Management Services will consider whether the need for the adjustment is substantial, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request. The effective ~~dates~~date for the 4% and 3% adjustment ~~increases~~increase effective December 2, 2005 and January 1, 2007, respectively, are as stated.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.100 Other Pay Provisions**EMERGENCY**

- a) Transfer – Upon the assignment of an employee to a vacant position in a class with the same pay grade as the class for the position being vacated, the employee's base salary will not be changed. Upon separation from a position in a given class and subsequent appointment to a position in the same pay grade, no increase in salary will be given.
- b) Entrance Base Salary –
- 1) Qualifications Only Meet Minimum Requirements – When a candidate only meets the minimum requirements of the class specification upon entry to State service, an employee's entrance base salary is the in-hiring rate or the minimum base salary of the pay grade.
 - 2) Qualifications Above Minimum Requirements – If a candidate possesses directly-related education and experience in excess of the minimum requirements of the class specification, the employing agency may offer the candidate an entrance base salary that is not more than 10% above the candidate's current base salary. An entrance base salary offer more than 10% above the candidate's current base salary requires documentation in

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the candidate's CMS employment application (CMS-100) to support the higher entrance base salary offer and prior approval from the Director of Central Management Services. The approval is based on the candidate's documented directly-related education and experience exceeding the minimum requirements in the class specification, prior base salary history, staffing needs and requirements of the employing agency, and labor market influences on the recruitment for the position classification or position.

- 3) Area Differential – For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which the positions are established, a higher entrance step may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate shall be advanced to the new rate.
- c) Geographical Transfer – Upon geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment effective the first day of the month following date of approval.
 - d) Differential and Overtime Pay – An eligible employee may have an amount added to his/her base salary for a given pay period for work performed in excess of the normal requirements for the position and work schedule, as follows:
 - 1) Shift Differential Pay – An employee may be paid an amount in addition to his/her base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
 - 2) Overtime Pay –
 - A) Eligibility - The Director of Central Management Services will maintain a list of titles and their overtime eligibility as determined by labor contracts, Federal Fair Labor Standards Act, or State law or regulations. Overtime shall be paid in accordance with the labor

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contracts, Federal Fair Labor Standards Act, and State law or regulations.

- B) Compensatory Time - Employees who are eligible for compensatory time may request such time, which may be granted by the agency at its discretion, considering, among other things, its operating needs. Compensatory time shall be taken within the fiscal year it was earned at a time convenient to the employee and consistent with the operating needs of the agency. Compensatory time shall be accrued at the rate in which it is earned (straight time or time and a half), but shall not exceed 120 hours in any fiscal year. Compensatory time approved for non-union employees will be earned after 40 actual work hours in a workweek. Compensatory time not used by the end of the fiscal year in which it was earned shall be liquidated and paid in cash at the rate it was earned. Time spent in travel outside the normal work schedule shall not be accrued as compensatory time except as provided by labor contracts and the Federal Fair Labor Standards Act. At no time are overtime hours or compensatory time to be transferred from one agency to another agency.
- 3) Incentive Pay – An employee may be paid an amount in addition to his/her base salary for work performed in excess of the normal work standard as determined by agency management. The additional compensation shall be at a wage rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
- 4) Temporary Assignment Pay –
- A) When Assigned to a Higher-Level Position Classification – A bargaining unit employee may be temporarily assigned to a bargaining unit position in a position classification having a higher pay grade and shall be eligible for temporary assignment pay. To be eligible for temporary assignment pay, the employee must be directed to perform the duties that distinguish the higher-level position classification and be held accountable for the

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responsibility of the higher classification. Employees shall not receive temporary assignment pay for paid days off except if the employee is given the assignment for 30 continuous days or more, the days off fall within the period of time and the employee works 75% of the time of the temporary assignment. Temporary assignment pay shall be calculated as if the employee received a promotion into the higher pay grade. In no event is the temporary assignment pay to be lower than the minimum rate of the higher pay grade or greater than the maximum rate of the higher pay grade.

- B) When Required to Use Second Language Ability – Employees who are bilingual or have the ability to use sign language, Braille, or another second language (e.g., Spanish) and whose job descriptions do not require that they do so shall be paid temporary assignment pay when required to perform duties requiring the ability. The temporary assignment pay received is prorated based on 5% or \$100 per month, whichever is greater, in addition to the employee's base rate.
- e) Interim Assignment Pay – This subsection of the Pay Plan explains interim assignment pay as applied to certified non-bargaining unit employees in a salary grade position assigned to perform on a full-time interim basis and be accountable for the higher-level duties and responsibilities of the non-bargaining unit (salary grade or merit compensation (including broad-band and medical administrator)) position. On the effective date of the certified non-bargaining unit employee's interim assignment (80 Ill. Adm. Code 302.150(j)), the employee shall receive an adjustment as if the employee received a promotion into the higher pay grade or range.
- 1) When Assigned to the Salary Grade Position - When assigned to the salary grade position, the employee's base salary shall be advanced to the lowest step in the higher pay grade that represents at least a full step increase in the lower pay grade. When the employee's current rate is Step 8 in the lower pay grade, the employee shall be paid at the lowest step rate in the higher pay grade that results in an increase equal to at least 3%. To compute this, add 3% to the employee's current rate at Step 8 (then include longevity if the employee is receiving an increased rate based on longevity). Then place the employee on the lowest step in the higher pay grade that is at least equivalent to that amount. Upon interim assignment,

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the employee's creditable service date shall change to the effective date of the interim assignment.

- 2) When Assigned to the Merit Compensation Position - When assigned to the merit compensation position, the employee's base salary shall receive an adjustment, which is an amount equivalent to between 8% and 15% of the employee's current base salary. In no event is the resulting salary to be lower than the minimum rate or greater than the maximum rate of the salary range to which the employee is being assigned. Upon interim assignment, the employee's creditable service date shall change to the effective date of the interim assignment.

f) Out-of-State Assignment – Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

g) ~~f~~ Equivalent Earned Time –

- 1) Eligibility - Employees who are non-union, exempt under the Federal Fair Labor Standards Act, and in positions not eligible for overtime compensation may receive equivalent earned time for hours worked in excess of 40 actual work hours in a work week.
- 2) Accrual -
 - A) Employees who are eligible for equivalent earned time shall request that time before working in excess of 40 actual work hours in a work week. Requests for equivalent earned time may be granted by the agency at its discretion, considering its operating needs. Equivalent earned time shall be accrued at straight time only to a maximum of 120 hours in any fiscal year.
 - B) Equivalent earned time will accrue in no less than one-half hour increments. Time spent in travel outside the normal work schedule shall not be counted toward accrual of equivalent earned time.

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- 3) Compensation - Any approved equivalent earned time shall be taken at a time convenient to the employee and consistent with the operating needs of the agency. This time may not be carried over from one fiscal year to another fiscal year, except that equivalent earned time accrued during June of one fiscal year may be carried over for use prior to August of the immediately following fiscal year. At no time is equivalent earned time to be converted into cash payment or transferred from one agency to another agency.
- ~~h)g)~~ Part-Time Work – Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily basis computed by dividing the annual rate of salary by the total number of work days in the year.
- ~~h)~~ ~~Out of State Assignment—Employees who are assigned to work out of state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.~~
- i) Lump Sum Payment – Lump sum payment shall be provided for accrued vacation, sick leave and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary layoff (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum cannot be given in these transactions. Method of computation is explained in Section 310.70(a).
- AGENCY NOTE – The method to be used in computing the lump sum payment for accrued vacation, sick leave and unused compensatory overtime payment for an incumbent entitled to shift differential during his/her regular work hours will be to use his/her current base salary plus the shift differential pay. Sick leave earned prior to January 1, 1984 and after December 31, 1997 is not compensable. Sick leave earned and not used between January 1, 1984 and December 31, 1997 will be compensable at the current base daily rate times one-half of the total number of compensable sick days.
- j) Salary Treatment Upon Return From Leave – An employee returning from Administrative Leave (80 Ill. Adm. Code 302.795), Military Leave (80 Ill. Adm. Code 302.220 and 303.170), Peace Corps Leave (80 Ill. Adm. Code 302.230),

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Service-Connected Disability Leave (80 Ill. Adm. Code 303.135), Educational Leave (80 Ill. Adm. Code 302.215), Disaster Service Leave with Pay (80 Ill. Adm. Code 303.175), Family Responsibility Leave (80 Ill. Adm. Code 303.148), Leave to accept a temporary, emergency, provisional, exempt (80 Ill. Adm. Code 303.155) or trainee position, Leave to serve in domestic peace or job corps (80 Ill. Adm. Code 302.230) or leave to serve in an interim assignment will be placed on the step that reflects satisfactory performance increases to which he/she would have been entitled during his/her period of leave. Creditable service date will be maintained. An employee returning to his/her former pay grade from any other leave of over 14 days will be placed at the step on which he/she was situated prior to his/her leave, and his/her creditable service date will be extended by the duration of the leave.

- k) Salary Treatment Upon Reemployment –
 - 1) Upon the reemployment of an employee in a class with the same pay grade as the class for the position held before layoff, the employee will be placed at the same salary step as held at the time of the layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
 - 2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the step in the lower pay grade that provides the base salary nearest in amount to, but less than, the current value of the step held at the time of layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
- l) Reinstatement – The salary upon reinstatement should not provide more than a 10% increase over the candidate's current base salary or exceed the current value of the salary step held in the position where previously certified without prior approval by the Director of Central Management Services. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the pay grade.
- m) Extended Service Payment –
 - 1) The Step 8 rate shall be increased by \$25 per month for those employees who have attained 10 years of service and have three years of creditable

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service on Step 8 in the same pay grade. This increase is suspended for non-union positions and employees.

- 2) The Step 8 rate shall be increased by \$50 per month for those employees who have attained 15 years of service and have three years of creditable service on Step 8 in the same pay grade. This increase is suspended for non-union positions and employees.
- n) Bilingual~~Bi-lingual~~ Pay – Individual positions whose job descriptions require the use of sign language, Braille, or another second language (e.g., Spanish) shall receive 5% or \$100 per month, whichever is greater, in addition to the employee's base rate.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

SUBPART B: SCHEDULE OF RATES

Section 310.260 Trainee Rate**EMERGENCY**

Rates of pay for employees working in Trainee classes or in other classes pursuant to a Trainee Program (80 Ill. Adm. Code 302.170) shall conform to those set forth in the applicable Trainee Program, to salary grade pay grades approved for or pay grades negotiated for such training classes. Merit compensation system Trainee Program rates, which are recommended by the agency head where the Trainee Program is established, will normally be less than the entrance rate for the class for which training is being conducted unless otherwise approved by the Director of Central Management Services. (Effective July 1, 2003, increases are suspended for non-union positions and employees.) Effective December 2, 2005, non-bargaining-unit trainee rates receive a 4% adjustment increase and the base salary for each non-bargaining-unit employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in the employee's creditable service date. Effective January 1, 2007, salary grade trainee rates receive a 3% adjustment increase and the base salary for each salary grade employee receives a 3% adjustment increase without change in the employee's creditable service date.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.280 Designated Rate

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EMERGENCY

- a) Requirements – The rate of pay for a specific position or class of positions excluded from the other requirements of this Pay Plan shall be only as designated by the Governor. A designated rate is the fixed rate of pay assigned usually to one position within a position classification. The fixed rate is above the maximum of the pay grade or salary range assigned to the position classification. The fixed rate is the value the employing agency determines for the uniquely combined position and employee or the candidate recruited to be the employee. A designated rate may be assigned to a position classification and, therefore, all positions within the position classification. The establishment of or change to a designated rate requires a request from the head of the employing agency to the Director of Central Management Services.
- b) Request from the Head of the Employing Agency – The request from the employing agency head shall explain the unique nature of the employee's education and experience combined with the position's scope, responsibility, and reporting that warrant the requested designated rate, how the requested designated rate was determined, and the requested effective date. The employing agency shall attach to the request the current position description (CMS-104) and the candidate's or employee's current State employment or promotional employment application (CMS-100 or CMS-100B).
- c) Review and Approval – The Director of Central Management Services shall review the requested designated rate by comparing the value given to other positions and employees in the employing agency, the State, and other states when available. Following the review, the Director of Central Management Services shall seek the Governor's approval for the designated rate and its effective date.
- d) Employee Payment – When the rate is approved, this Section shall be amended to include the approved designated rate. Once amended, the employing agency shall pay the employee the designated rate retroactively to the effective date approved by the Governor.
- e) Annual Designated Rates by Employing Agency –

Department of Commerce & Economic Opportunity

Private Secretary II

Annual Salary

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(Pos. No. 34202-42-00-000-01-02) 62,400

~~Department of Healthcare and Family Services~~

~~Senior Public Service Administrator~~ Annual Salary
(Pos. No. ~~40070-33-20-000-00-61~~) 123,060

~~Department of Human Services~~

~~Administrative Assistant I~~ Annual Salary
(Pos. No. ~~00501-10-68-010-80-21~~) 55,200

Department of Public Health

Senior Public Service Administrator Annual Salary
(Pos. No. 40070-20-80-000-00-81) 139,364

Department of Revenue

Senior Public Service Administrator Annual Salary
(Pos. No. 40070-25-60-000-00-01) 133,104

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.290 Out-of-State ~~or Foreign Service~~ Rate
EMERGENCY

- a) Requirements – The out-of-state ~~or foreign service~~ rate is the rate of pay for employees not subject to Section 310.220 but occupying positions in the classification titles listed in subsection (d) that require payment in accordance with the economic conditions of another state ~~or foreign country~~. The employee shall reside in the state ~~or foreign country~~ where the position is assigned.
- b) Adjustments and Bonuses –
- 1) Approval - The Director of Central Management Services will, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

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2) Adjustments Effective December 2, 2005 - Effective December 2, 2005, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in the employee's creditable service date. ~~For foreign service rates listed in subsection (d), an adjustment shall be made once a month to the base salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate.~~

3) Eligibility for Annual Merit Increases and Bonuses – Employees in positions assigned to and receiving out-of-state rates where the classification's positions are otherwise assigned to the merit compensation system or not assigned to a bargaining unit are eligible for the annual merit increases and bonuses whose procedures and guidechart are in Sections 310.450 and 310.540, respectively.

4) Suspension – Effective July 1, 2003 through and including December 31, 2006, adjustments ~~Adjustments~~ except those based on the currency exchange rate or those effective December 2, 2005 were, are suspended for non-union positions and employees. The suspension of adjustments remains in effect for employees in positions assigned to and receiving out-of-state rates where the classification's positions are otherwise assigned to a bargaining unit.

c) Out-Of-State Rate Calculation – Ranges ~~For out of state rates, ranges~~ assigned to states other than California and New Jersey are 15% above the ranges assigned to in-state positions and are listed in subsection (d). Ranges assigned to California and New Jersey are 30% above the ranges assigned to in-state positions and are listed in subsection (d).

d) Minimum and Maximum Out-of-State ~~or Foreign Service~~ Rates in Ranges by Classification Title –

<u>Title</u>	<u>Ranges</u>	
	<u>December 2, 2005</u>	<u>January 1, 2007</u>
	<u>minimum</u>	<u>maximum</u>
	<u>minimum</u>	<u>maximum</u>

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<u>(States Other Than California and New Jersey)</u>	<u>3401</u>	<u>6130</u>	<u>3401</u>	<u>7171</u>
<u>(CA, NJ)</u>	<u>3844</u>	<u>6929</u>	<u>3844</u>	<u>8107</u>
<u>Office Administrator IV</u>				
<u>(States Other Than California and New Jersey)</u>	<u>2673</u>	<u>4630</u>	<u>2673</u>	<u>5417</u>
<u>(CA, NJ)</u>	<u>3021</u>	<u>5234</u>	<u>3021</u>	<u>6123</u>
<u>Office Associate</u>				
<u>(States Other Than California and New Jersey)</u>	<u>2387</u>	<u>3204</u>	<u>2387</u>	<u>3204</u>
<u>(CA, NJ)</u>	<u>2699</u>	<u>3622</u>	<u>2699</u>	<u>3622</u>
<u>Office Coordinator</u>				
<u>(States Other Than California and New Jersey)</u>	<u>2465</u>	<u>3327</u>	<u>2465</u>	<u>3327</u>
<u>(CA, NJ)</u>	<u>2786</u>	<u>3761</u>	<u>2786</u>	<u>3761</u>
<u>Public Service Administrator</u>				
<u>(States Other Than California and New Jersey)</u>	<u>3583</u>	<u>7843</u>	<u>3583</u>	<u>9176</u>
<u>(CA, NJ)</u>	<u>4051</u>	<u>8866</u>	<u>4051</u>	<u>10373</u>
<u>Revenue Audit Supervisor</u>				
<u>(States Other Than California and New Jersey)</u>	<u>4488</u>	<u>8390</u>	<u>4488</u>	<u>9816</u>
<u>(CA, NJ)</u>	<u>5074</u>	<u>9485</u>	<u>5074</u>	<u>11097</u>
<u>Revenue Tax Specialist I</u>				
<u>(States Other Than California and New Jersey)</u>	<u>2751</u>	<u>3803</u>	<u>2751</u>	<u>3803</u>
<u>(CA, NJ)</u>	<u>3110</u>	<u>4299</u>	<u>3110</u>	<u>4299</u>
<u>Revenue Tax Specialist Trainee</u>				
<u>(States Other Than California and New Jersey)</u>	<u>2546</u>	<u>3468</u>	<u>2546</u>	<u>3468</u>

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(States Other Than California and New Jersey)	2465	3327
(CA, NJ)	2786	3761
 Public Service Administrator		
(States Other Than California and New Jersey)	3583	7843
(CA, NJ)	4051	8866
 Revenue Tax Specialist I		
(States Other Than California and New Jersey)	2751	3803
(CA, NJ)	3110	4299
 Revenue Tax Specialist Trainee		
(States Other Than California and New Jersey)	2546	3468
(CA, NJ)	2878	3921
 Senior Public Service Administrator		
(States Other Than California and New Jersey)	4939	11607
(CA, NJ)	5584	13121

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.295 Foreign Service Rate
EMERGENCY

- a) Requirements – The foreign service rate is the rate of pay for employees not subject to Section 310.220 but occupying positions in the classification titles listed in subsection (d) that require payment in accordance with the economic conditions of a foreign country. The employee shall reside in the foreign country where the position is assigned.
- b) Adjustments –
- 1) Approval – The Director of Central Management Services will, before approving an adjustment to a foreign service rate, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular

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circumstances.

- 2) Adjustments Effective December 2, 2005 – Effective December 2, 2005, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in the employee's creditable service date.
- 3) Eligibility for Annual Merit Increases and Bonuses – Employees in positions assigned to and receiving foreign service rates where the classification's positions are otherwise assigned to the merit compensation system or not assigned to a bargaining unit are eligible for the annual merit increases and bonuses whose procedures and guidechart are in Sections 310.450 and 310.540, respectively.
- 4) Suspension – Effective July 1, 2003 through and including December 31, 2006, adjustments except those effective December 2, 2005 were suspended for non-union positions and employees. The suspension of adjustments remains in effect for employees in positions assigned to and receiving foreign service rates where the classification's positions are otherwise assigned to a bargaining unit.
- c) Differentials – For foreign service rates listed in subsection (d), a differential shall be made once a month to the base salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate.
- d) Minimum and Maximum Foreign Service Rates in Ranges by Classification Title –

<u>Title</u>	<u>Ranges</u>			
	<u>December 2, 2005</u>		<u>January 1, 2007</u>	
	<u>minimum</u>	<u>maximum</u>	<u>minimum</u>	<u>maximum</u>
<u>Foreign Service Economic Development Executive I</u>	<u>4002</u>	<u>7365</u>	<u>4002</u>	<u>8617</u>
<u>Foreign Service Economic Development Executive II</u>	<u>5126</u>	<u>9654</u>	<u>5126</u>	<u>11295</u>

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Foreign Service Economic Development

<u>Representative</u>	<u>3400</u>	<u>6130</u>	<u>3400</u>	<u>7172</u>
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Office Assistant (Foreign Service)

<u>2256</u>	<u>2976</u>	<u>2256</u>	<u>2976</u>
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(Source: Added by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.410 Jurisdiction**EMERGENCY**

The Merit Compensation System shall apply to all classes of positions designated below, Medical Administrator classes in Appendix C, and Broad-Band classes in Appendix G. In addition, the classes are listed and in the ALPHABETIC INDEX OF POSITION TITLES. Also see Section 310.495 for the application of the Merit Compensation System for those Broad-Band titles listed with their salary ranges in Appendix G.

Title	Title Code	Salary Plan
Accountant Supervisor	00135	MC-05
Activity Therapist Supervisor	00163	MC-07
Actuary III	00203	MC-16
Administrative Assistant I	00501	MC-04
Administrative Assistant II	00502	MC-06
Agricultural Marketing Representative	00810	MC-05
Assignment Coordinator	01530	MC-07
Assistant Automotive Shop Supervisor	01565	MC-03
Automotive Shop Supervisor	03749	MC-07
Boat Safety Inspection Supervisor	04850	MC-06
Building Construction Inspector I	05541	MC-04
Building Construction Inspector II	05542	MC-05
Business Manager	05815	MC-05
Commerce Commission Police Sergeant	08457	MC-07
Corrections Leisure Activities Specialist III	09813	MC-06
Corrections Leisure Activities Specialist IV	09814	MC-07
Corrections Vocational School Supervisor	09880	MC-05
Court Reporter Supervisor	09903	MC-08

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Data Processing Supervisor II	11436	MC-04
Data Processing Supervisor III	11437	MC-07
Dietary Manager I	12501	MC-03
Dietary Manager II	12502	MC-05
Disability Claims Analyst	12540	MC-06
Economic Development Representative I	12931	MC-05
Economic Development Representative II	12932	MC-07
Electrical Engineer	13180	MC-10
Employment Security Field Office Supervisor	13600	MC-06
Engineering Technician IV	13734	MC-07
Executive I	13851	MC-05
Executive II	13852	MC-07
Executive Secretary II	14032	MC-01
Executive Secretary III	14033	MC-02
Facility Fire Chief	14433	MC-02
Guard Supervisor	17685	MC-01
Guardianship Supervisor	17720	MC-07
Highway Construction Supervisor I	18525	MC-07
Highway Construction Supervisor II	18526	MC-09
Historical Library Chief of Acquisitions	18987	MC-06
Human Rights Mediator	19771	MC-05
Human Services Casework Manager	19788	MC-07
Internal Auditor I	21721	MC-05
Internal Security Investigator I	21731	MC-04
Internal Security Investigator II	21732	MC-07
International Marketing Representative I	21761	MC-05
KidCare Supervisor	22003	MC-07
Laundry Manager I	23191	MC-01
Librarian II	23402	MC-05
Lottery Regional Coordinator	24504	MC-07
Management Operations Analyst I	25541	MC-06
Manuscripts Manager	25610	MC-06
Meat and Poultry Inspector Supervisor	26073	MC-05
Mental Health Administrator I	26811	MC-05
Mental Health Administrator II	26812	MC-07
Mental Health Program Administrator	26908	MC-20
Methods and Procedures Advisor III	27133	MC-07
Office Administrator IV	29994	MC-02

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Office Administrator V	29995	MC-03
Plumbing Consultant	32910	MC-09
Police Lieutenant	32977	MC-09
Private Secretary I	34201	MC-02
Private Secretary II	34202	MC-04
Property Tax Analyst III	34923	MC-05
Public Aid Family Support Specialist II	35842	MC-05
Public Aid Quality Control Supervisor	35900	MC-07
Public Aid Staff Development Specialist III	36073	MC-06
Public Health Program Specialist III	36613	MC-07
Radiologic Technologist Chief	37505	MC-03
Rehabilitation Workshop Supervisor III	38196	MC-05
Reimbursement Officer II	38200	MC-05
Reproduction Service Supervisor II	38202	MC-04
Residential Care Program Supervisor I	38271	MC-06
Revenue Audit Supervisor	38369	MC-12
Safety Responsibility Analyst Supervisor	38915	MC-02
Security Officer Chief	39875	MC-04
Security Officer Lieutenant	39876	MC-02
Security Therapy Aide IV	39904	MC-05
Sign Shop Foreman	41000	MC-06
Staff Development Specialist I	41771	MC-05
Staff Development Technician II	41782	MC-03
State Mine Inspector-At-Large	42240	MC-11
Statistical Research Specialist III	42743	MC-06
Statistical Research Supervisor	42745	MC-07
Storekeeper III	43053	MC-01
Supervising Vehicle Testing Compliance Officer	43680	MC-06
Switchboard Chief Operator	44410	MC-01
Technical Advisor I	45251	MC-05
Technical Advisor II	45252	MC-07
Telecommunications Supervisor	45305	MC-07
Utility Engineer I	47451	MC-05
Utility Engineer II	47452	MC-07
Vehicle Emissions Compliance Supervisor	47583	MC-05
Waterways Construction Supervisor I	49061	MC-05
Waterways Construction Supervisor II	49062	MC-07

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(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.450 Procedures for Determining Annual Merit Increases and Bonuses
EMERGENCY

- a) Definitions -
- 1) Annual Merit Increase - An annual merit increase is an in-range salary adjustment for demonstrated performance. The annual merit increases were suspended effective July 1, 2003 and are restored effective January 1, 2007.
 - 2) Annual Merit Bonus – An annual merit bonus is a percentage of the employee's annualized base salary that is paid once for demonstrated performance and separately from the base salary. The annual merit bonuses are established effective January 1, 2007.
- b) Eligibility Conditions - Eligibility for an annual merit increase and bonus shall be determined by the following conditions:
- 1) 12 Months Creditable Service or from the Last Officially Scheduled Performance Review and Performance Review Discussion – Each employee will be eligible for a performance merit review after attaining 12 months creditable service if new to the position or, if in the position longer than 12 months, from the last officially scheduled performance review (80 Ill. Adm. Code 302.270(d)). The employee's immediate supervisor shall prepare a Merit Compensation and Performance System~~an Individual Development and Performance Evaluation~~ form prior to the Performance Review Date, and discuss the results with the employee.
 - 2) Guidechart Category Amount, Salary Range Maximum in Relation to Base Salary Increase and Current Base Salary – Should the performance~~Individual Development and Performance~~ review result in the employee not being eligible for an annual merit increase and bonus due to provisions of Section 310.450(d), or should the employee's base rate be at the maximum rate of pay of the salary range assigned to the employee's position, the employee will not be eligible for an annual merit increase and bonus until 12 months of additional creditable service has been accrued.

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- c) Immediate Supervisor Determination of Performance Category – Based upon the results of the performance review~~Individual Development and Performance Evaluation~~, the employees' immediate supervisor shall determine whether the employee's performance warrants or does not warrant an annual merit increase and bonus.
- d) Amount Restrictions - The amount of an annual merit increase and bonus recommendation shall be determined by use of the Merit Increase and Bonus Guidechart of Section 310.540 if the employee's performance review~~Individual Development and Performance Evaluation~~ has on the Performance Review Date on or after January 1, 2007 been evaluated at a Category 3 or higher level. An employee whose performance review~~Individual Development and Performance Evaluation~~ has on the Performance Review Date been evaluated at Category 4 on or after January 1, 2007 or at any category prior to January 1, 2007 shall not receive an increase in the present base salary or a bonus. However, in no event is the resulting salary to be lower than the minimum or higher than the maximum rate of pay of the respective salary range assigned to the employee's position. ~~(Effective July 1, 2003, increases are suspended.)~~
- e) Immediate Supervisor Indication of Eligibility and Amount – The employee's immediate supervisor shall prepare a Performance Certification and MeritSalary Increase and Bonus Recommendation form indicating whether or not the employee is eligible for an annual merit increase and bonus and the amounts~~amount~~ thereof. ~~(Effective July 1, 2003, merit increases are suspended.)~~
- f) Review and Approval - The employee's immediate supervisor shall forward the completed Merit Compensation and Performance System~~Individual Development and Performance Evaluation records~~ and Performance Certification and MeritSalary Increase and Bonus Recommendation forms~~records~~ to the agency head or a designated authority for review and approval.
- g) Effective Date – The annual~~Annual~~ merit increase and bonus~~in pay~~ shall become effective the first day of the month in which the employee's Performance Review Date occurs.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.490 Other Pay Provisions

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- a) Transfer – Upon assignment of an employee to a vacant position in a class with the same salary range as the class for the position being vacated, the employee's base salary will not be changed. Upon separation and subsequent appointment to a position in the same salary range, no increase in salary will be given.
- b) Entrance Base Salary –
 - 1) When a candidate only meets the minimum requirements of the class specification upon entry to State service, an employee's entrance base salary is the in-hiring rate or the minimum base salary of the salary range.
 - 2) Qualifications Above Minimum Requirements – If a candidate possesses directly-related education and experience in excess of the minimum requirements of the class specification, the employing agency may offer the candidate an entrance base salary that is not more than 10% above the candidate's current base salary. An entrance base salary offer more than 10% above the candidate's current base salary requires documentation in the candidate's CMS employment application (CMS-100) to support the higher entrance base salary offer and prior approval from the Director of Central Management Services. The approval is based on the candidate's documented directly-related education and experience exceeding the minimum requirements in the class specification, prior base salary history, staffing needs and requirements of the employing agency, and labor market influences on the recruitment for the position classification or position.
 - 3) Area Differential – For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which the positions are established, a higher entrance salary may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate of pay shall be advanced to the new rate.
- c) Geographical Transfer – Upon geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment, effective the first day of the month following the date of assignment.

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- d) Differential and Overtime Pay – An eligible employee may have an amount added to the base salary for a given pay period for work performed in excess of the normal requirements for the position and work schedule, as follows:
- 1) Shift Differential Pay – An employee may be paid an amount in addition to the base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
 - 2) Overtime Pay -
 - A) Eligibility - The Director of Central Management Services shall maintain a listing of classes of positions subject to the provisions of the Merit Compensation System that are eligible for overtime compensation. Classes in salary ranges MC 6 and below are eligible for straight-time overtime unless exceptions are determined by the Director of Central Management Services or federal guidelines. Employees in these classes of positions who are assigned and perform work in excess of the normal work schedule as established by the agency shall be compensated at a straight-time rate on either a cash or compensatory time-off basis for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. Classes in MC 7 and above are not eligible for overtime unless required by federal regulation or approved by the Director of Central Management Services. Exceptions must be requested by the employing agency and will be determined on the basis of the special nature of the situation, a substantial need to provide overtime compensation and a significant number of hours worked beyond the normal work schedule, and will be granted only for a specified time period for which the special situation is expected to exist.
 - B) Compensatory Time - Employees who are eligible for compensatory time may request such time, which may be granted by the agency at its discretion, considering, among other things, its

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operating needs. Compensatory time shall be taken within the fiscal year it was earned at a time convenient to the employee and consistent with the operating needs of the agency. Compensatory time shall be accrued at the rate in which it is earned (straight time or time and a half), but shall not exceed 120 hours in any fiscal year. Compensatory time approved for non-union employees will be earned after 40 actual work hours in a workweek.

Compensatory time not used by the end of the fiscal year in which it was earned shall be liquidated and paid in cash at the rate it was earned. Time spent in travel outside the normal work schedule shall not be accrued as compensatory time except as provided by labor contracts and the Federal Fair Labor Standards Act. At no time are overtime hours or compensatory time to be transferred from one agency to another agency.

- e) Equivalent Earned Time –
- 1) Eligibility – Employees who are non-union, exempt under the Federal Fair Labor Standards Act, and in positions not eligible for overtime compensation may receive equivalent earned time for hours worked in excess of 40 actual work hours in a work week.
 - 2) Accrual –
 - A) Employees who are eligible for equivalent earned time shall request that time before working in excess of 40 actual work hours in a work week. Requests for equivalent earned time may be granted by the agency at its discretion, considering its operating needs. Equivalent earned time shall be accrued at straight time only to a maximum of 120 hours in any fiscal year.
 - B) Equivalent earned time will accrue in no less than one-half hour increments. Time spent in travel outside the normal work schedule shall not be counted toward accrual of equivalent earned time.
 - 3) Compensation – Any approved equivalent earned time shall be taken at a time convenient to the employee and consistent with the operating needs of the agency. This time may not be carried over from one fiscal year to another fiscal year, except that equivalent earned time accrued during June of one fiscal year may be carried over for use prior to August of the

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immediately following fiscal year. At no time is equivalent earned time to be converted into cash payment or transferred from one agency to another agency.

- f) Part-Time Work – Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily rate basis computed by dividing the annual rate of salary by the total number of work days in the year.
- g) Out-of-State Assignment – Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.
- h) Lump Sum Payment – Lump sum payment shall be provided for accrued vacation, sick leave and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary layoff (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum payments cannot be given in these transactions. Methods of computation are explained in Section 310.520(a).

AGENCY NOTE: The method to be used in computing lump sum payment for accrued vacation, sick leave and unused compensatory overtime for an incumbent entitled to shift differential during the regular work hours will be to use the current base salary plus the shift differential pay. Sick leave earned prior to January 1, 1984 and after December 31, 1997 is not compensable. Sick leave earned and not used between January 1, 1984 and December 31, 1997 will be compensable at the current base daily rate times one-half of the total number of compensable sick days.

- i) Salary Treatment upon Return from Leave – An employee returning from Administrative Leave (80 Ill. Adm. Code 302.795), Military Leave (80 Ill. Adm. Code 302.220 and 303.170), Peace Corps Leave (80 Ill. Adm. Code 302.230), Service-Connected Disability Leave (80 Ill. Adm. Code 303.135), Educational Leave (80 Ill. Adm. Code 302.215), Disaster Service Leave with Pay (80 Ill. Adm. Code 303.175), Family Responsibility Leave (80 Ill. Adm. Code 303.148), Leave to accept a temporary, emergency, provisional, exempt (80 Ill. Adm. Code 303.155) or trainee position, Leave to serve in domestic peace or job corps (80 Ill.

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Adm. Code 302.230) or leave to serve in an interim assignment will have his/her salary established as determined appropriate by the employing agency and approved by the Director of Central Management Services. However, in no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range. Creditable service date will be maintained. An employee returning to his/her former salary range from any other leave of over 14 days will be placed at the salary which the employee received prior to the leave and the creditable service date will be extended by the duration of the leave.

- j) Employees in classes that are made subject to the Merit Compensation System ~~after July 1, 1979~~ will retain their current salary, except that in no event is the resultant salary to be lower than the minimum rate or higher than the maximum rate of the new salary range.
- k) Temporary Assignment Pay When Required to Use Second Language Ability – Employees who are bilingual or have the ability to use sign language, Braille, or another second language (e.g., Spanish) and whose job descriptions do not require that they do so shall be paid temporary assignment pay when required to perform duties requiring the ability. The temporary assignment pay received is prorated based on 5% or \$100 per month, whichever is greater, in addition to the employee's base rate.
- l) Salary Treatment Upon Reemployment –
 - 1) Upon the reemployment of an employee in a class with the same salary range as the class for the position held before layoff, the employee will be placed at the same salary as held at the time of the layoff, and his creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
 - 2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the same salary as held at the time of layoff, except that if this exceeds the maximum of the new range, the employee will be placed at that maximum salary. The creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
- m) Reinstatement – The salary upon reinstatement ~~of an employee will be as determined by the employing agency and approved by the Director of Central~~

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~~Management Services. This salary~~ should not provide more than a 10% increase over the candidate's current base salary, or exceed the salary rate held in the position where previously certified without prior approval of the Director of Central Management Services. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.

- n) Bilingual Pay – Individual positions whose job descriptions require the use of sign language, Braille, or another second language (e.g., Spanish) shall receive 5% or \$100 per month, whichever is greater, in addition to the employee's base rate.
- o) Clothing or Equipment Allowance – An employee may be paid an amount in addition to his/her base salary to compensate for clothing or equipment that is required in the performance of assigned duties. The amount will be determined by the Director of the employing agency, and will require approval of the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.
- p) Interim Assignment Pay – This subsection of the Pay Plan explains interim assignment pay as applied to certified non-bargaining unit employees in a merit compensation (including broad-band and medical administrator) position assigned to perform on a full-time interim basis and be accountable for the higher-level duties and responsibilities of the non-bargaining unit (salary grade or merit compensation (including broad-band and medical administrator)) position. On the effective date of the employee's interim assignment (80 Ill. Adm. Code 302.150(j)), the employee shall receive an adjustment as if the employee received a promotion into the higher pay grade or range.
 - 1) When Assigned to the Merit Compensation Position - When assigned to the merit compensation position, the adjustment is an amount equivalent to between 8% and 15% of the employee's current base salary. In no event is the resulting salary to be lower than the minimum rate or greater than the maximum rate of the salary range to which the employee is being assigned. Upon interim assignment, the employee's creditable service date shall change to the effective date of the interim assignment.
 - 2) When Assigned to the Salary Grade Position - When assigned to the salary grade position, the adjustment is determined by taking the difference between the salary on the step equivalent to or greater than the

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employee's current base salary and the salary one step above that step and adding that difference to the employee's current base salary. Then place the employee on the lowest step in the higher pay grade that is at least equivalent to that amount. In no event is the resulting salary to be lower than the minimum rate or greater than the maximum rate of the pay grade to which the employee is being assigned. Upon interim assignment, the employee's creditable service date shall change to the effective date of the interim assignment.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.495 Broad-Band Pay Range Classes**EMERGENCY**

Broad-band pay range classes shall be covered by all provisions of the Merit Compensation System except for the provisions identified in the following subsections:

- a) Salary Range - The salary range for broad-band classes shall be as set out in Appendix G.
- b) Entrance Base Salary –
 - 1) When a candidate only meets the minimum requirements of the class specification upon entry to State service, an employee's entrance base salary is the in-hiring rate or the minimum base salary of the salary range.
 - 2) The salary assigned an employee shall take into account the duties, education, training and experience of the employee to assure reasonable pay equity among employees in the same class.
 - 3) If a candidate possesses directly-related education and experience in excess of the minimum requirements of the class specification, the employing agency may offer the candidate an entrance base salary that is not more than 10% above the candidate's current base salary. An entrance base salary offer more than 10% above the candidate's current base salary requires documentation in the candidate's CMS employment application (CMS-100) to support the higher entrance base salary offer and prior approval from the Director of Central Management Services. The approval is based on the candidate's documented directly-related education

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and experience exceeding the minimum requirements in the class specification, prior base salary history, staffing needs and requirements of the employing agency, and labor market influences on the recruitment for the position classification or position.

- c) Salary Adjustment for Substantial Additional Duties and Responsibilities within the Same Position or for Transfer to Another Position with Substantial Additional Duties in the Same Title – An upward salary adjustment that is not more than 10% above the employee's current base salary in a broad-band position classification may be made by the employing agency where the employee's position employee has been given substantial additional duties and responsibilities but will remain in the same classification or where the employee transfers to another position with substantial additional responsibilities in the same broad-band class. An upward salary adjustment for substantial additional duties and responsibilities that is more than 10% above the employee's current base salary may be given where the substantial additional duties and responsibilities are documented on an updated position description (CMS-104) and are reflected on the organization chart, and where the employing agency received the required prior approval from the Director of Central Management Services.
- d) Movement between Salary Systems - Salary treatment on movement of an employee between one position in the broad-band class series and another position outside of the broad-band class series will be as recommended by the employing agency and approved by the Director of Central Management Services.
- e) Salary Treatment upon Initial Placement of Positions in Other Occupational Broad-Band Classes - For the purpose of establishing salary treatment upon initial placement of positions, it is necessary to determine the "lowest corresponding Merit Compensation grade." The Merit Compensation range with a minimum salary closest to, but not lower than, that of the broad-band range minimum is known as the "lowest corresponding Merit Compensation grade."
- 1) The incumbent of a position with a current salary range maximum equal to or greater than the maximum of the "lowest corresponding Merit Compensation grade" will be placed in the broad-band range with no change in salary.
 - 2) The incumbent of a position with a current salary range maximum less than the maximum of the "lowest corresponding Merit Compensation grade" will be placed in the broad-band range with a 5% increase in

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current base salary. However, in no event shall the resulting salary be lower than the minimum or higher than the maximum rate of the new salary range. The creditable service date of an employee will not be changed unless an increase of 10% or greater is provided to move the employee to the minimum of the new range.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.500 Definitions**EMERGENCY**

The following are definitions of certain terms and are for purposes of clarification as they affect the Merit Compensation System only.

"Adjustment in Salary" - A change in salary occasioned by previously committed error or oversight, or required in the best interest of the agency or the state as defined in Sections 310.470 and 310.480.

"Base Salary" - The dollar amount of pay of an employee as determined under the provisions of the Merit Compensation System. Base salary does not include commission, incentive pay, bilingual pay, longevity pay, overtime pay, ~~or~~ shift differential pay or deductions for time not worked.

"Bilingual Pay" - The dollar amount per month, or percentage of the employee's monthly base salary, paid in addition to the employee's base salary when the individual position held by the employee has a job description that requires the use of sign language, Braille, or another second language (e.g., Spanish), or that requires the employee to be bilingual.

"Creditable Service" - All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last in-range in-grade or promotional salary increase. Reevaluations and reallocations will not affect the creditable service date. Adjustments (Section 310.470) "for the purpose of correcting a previous error or oversight" shall not result in a change in the creditable service date; however, adjustments in "the best interests of the agency" shall result in a new creditable service date unless the Director of Central Management Services determines such changes to be inequitable.

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"Comparable Classes" - Two or more classes that are in the same salary range.

"Demotion" - The assignment for cause of an employee to a vacant position in a class in a lower salary range than the former class.

"Differential" - The additional compensation added to the base salary of an employee resulting from conditions of employment imposed during the normal schedule of work.

"Entrance Base Salary" - The initial base salary assigned to an employee upon entering State service.

"Intermittent Merit Increase" - An intermittent merit increase is an increase in monthly base salary, other than the annual merit increase awarded to a merit compensation employee based on performance.

"Maximum Rate of Pay" - The highest rate of pay for a given salary range.

"Midpoint Salary" - The rate of pay that is the maximum rate and the minimum rate in the salary range added together divided by two and rounded up or down to the nearest whole dollar~~divides the rate range of a salary range into two equal parts.~~

"Minimum Rate of Pay" - The lowest rate of pay for a given salary range. Normally the minimum rate of pay represents the salary to be paid a qualified employee who is appointed to a position in a class assigned to a given salary range.

"Performance Review" - The required review of an employee's on-the-job performance as measured by a specific set of criteria.

"Performance Review Date" - The date on which the annual merit increase and bonus shall~~must~~ be made effective if a performance review indicates it is appropriate. Actual performance review procedures are to be completed prior to the effective date of any recommendation to allow sufficient time for the records to be processed by the originating agency.

"Promotion" - The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher salary range than the former class.

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"Reallocation" - The change in the classification of a position resulting from significant changes in assigned duties and responsibilities.

"Reclassification" - The assignment of a position or positions to a different classification based on creation of a new classification or the revision of existing class specification, and approved by the Civil Service Commission.

"Reevaluation" - The assignment of a different salary range to a class of positions based upon a change in relation to other classes or to the labor market.

"Salary Range" - The dollar values encompassed by the minimum and maximum rates of pay of a salary range assigned to a class title.

"Transfer" - The assignment of an employee to a vacant position in a class having the same salary range.

"Work Year" - That period of time determined by the agency and filed with the Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.530 Implementation**EMERGENCY**

- a) The salary ~~schedules~~ schedule for the Merit Compensation System will continue as set forth in Appendices C, Appendix D, and G of the Pay Plan.
- b) The Merit Increase and Bonus Guidechart as set forth in Section 310.540 of the Pay Plan.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

Section 310.540 Annual Merit Increase and Bonus Guidechart**EMERGENCY**

Effective July 1, 2003

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Category	Definition	Increase
Category 1	Exceptional	\$0
Category 2	Accomplished	\$0
Category 3	Acceptable	\$0
Category 4	Unacceptable	\$0

Effective January 1, 2007

<u>Category</u>	<u>Definition</u>	<u>Increase</u>	<u>Bonus</u>
<u>Category 1</u>	<u>Exceptional</u>	<u>\$200/month</u>	<u>0% - 7%</u>
<u>Category 2</u>	<u>Accomplished</u>	<u>\$150/month</u>	<u>0% - 3%</u>
<u>Category 3</u>	<u>Acceptable</u>	<u>\$100/month</u>	<u>0%</u>
<u>Category 4</u>	<u>Unacceptable</u>	<u>\$0</u>	<u>0%</u>

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

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Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE J RC-014 (Clerical Employees, AFSCME)****EMERGENCY**

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Grade</u>
Account Clerk I	00111	RC-014	05
Account Clerk II	00112	RC-014	07
Account Technician I	00115	RC-014	10
Account Technician II	00116	RC-014	12
Administrative Services Worker Trainee	00600	RC-014	02
Aircraft Dispatcher	00951	RC-014	12
Aircraft Lead Dispatcher	00952	RC-014	14
Audio Visual Technician I	03501	RC-014	06
Audio Visual Technician II	03502	RC-014	09
Buyer Assistant	05905	RC-014	10
Check Issuance Machine Operator	06920	RC-014	09
Check Issuance Machine Supervisor	06925	RC-014	11
Clerical Trainee	08050	RC-014	TR
Communications Dispatcher	08815	RC-014	09
Communications Equipment Technician I	08831	RC-014	17
Communications Equipment Technician II	08832	RC-014	19
Communications Equipment Technician III	08833	RC-014	20
Court Reporter	09900	RC-014	15
Data Processing Assistant	11420	RC-014	06
Data Processing Operator	11425	RC-014	04
Data Processing Operator Trainee	11428	RC-014	02
Drafting Worker	12749	RC-014	11
Electronic Equipment Installer/Repairer	13340	RC-014	10
Electronic Equipment Installer/Repairer Lead Worker	13345	RC-014	12
Electronics Technician	13360	RC-014	15
Emergency Response Lead Telecommunicator	13540	RC-014	12
Emergency Response Telecommunicator	13543	RC-014	10
Engineering Technician II	13732	RC-014	13
Engineering Technician III	13733	RC-014	16
Executive Secretary I	14031	RC-014	11
Executive Secretary II	14032	RC-014	14
Graphic Arts Designer	17366	RC-014	14

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Graphic Arts Designer Supervisor	17365	RC-014	18
Graphic Arts Technician	17400	RC-014	12
Human Resources Assistant	19690	RC-014	08
Industrial Commission Reporter	21080	RC-014	16
Industrial Commission Technician	21095	RC-014	11
Insurance Analyst I	21561	RC-014	09
Insurance Analyst II	21562	RC-014	12
Insurance Analyst Trainee	21566	RC-014	07
Intermittent Clerk	21686	RC-014	02H
Library Aide I	23421	RC-014	03
Library Aide II	23422	RC-014	05
Library Aide III	23423	RC-014	07
Library Technical Assistant	23450	RC-014	10
Lottery Telemarketing Representative	24520	RC-014	09
Microfilm Laboratory Technician I	27175	RC-014	07
Microfilm Laboratory Technician II	27176	RC-014	09
Microfilm Operator I	27181	RC-014	04
Microfilm Operator II	27182	RC-014	06
Microfilm Operator III	27183	RC-014	08
Office Aide	30005	RC-014	02
Office Assistant	30010	RC-014	06
Office Associate	30015	RC-014	08
Office Clerk	30020	RC-014	04
Office Coordinator	30025	RC-014	09
Photographer I	32085	RC-014	11
Photographer II	32086	RC-014	14
Photographer III	32087	RC-014	15
Photographic Technician I	32091	RC-014	11
Photographic Technician II	32092	RC-014	14
Photographic Technician III	32093	RC-014	15
Procurement Representative	34540	RC-014	09
Property and Supply Clerk I	34791	RC-014	03.5
Property and Supply Clerk II	34792	RC-014	05.5
Property and Supply Clerk III	34793	RC-014	08
Property Tax Examiner	34930	RC-014	09
Rehabilitation Case Coordinator I	38141	RC-014	08
Rehabilitation Case Coordinator II	38142	RC-014	10
Reproduction Service Supervisor I	38201	RC-014	13
Reproduction Service Technician I	38203	RC-014	05
Reproduction Service Technician II	38204	RC-014	09

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Reproduction Service Technician III	38205	RC-014	11
Safety Responsibility Analyst	38910	RC-014	12
Storekeeper I	43051	RC-014	10.5
Storekeeper II	43052	RC-014	12.5
Storekeeper III	43053	RC-014	14
Stores Clerk	43060	RC-014	04.5
Switchboard Operator I	44411	RC-014	05
Switchboard Operator II	44412	RC-014	07
Switchboard Operator III	44413	RC-014	09
Telecommunicator – Command Center	45316	RC-014	13
Telecommunicator Lead Worker – Command Center	45318	RC-014	15
Telecommunicator	45321	RC-014	12
Telecommunicator – Call Taker	45322	RC-014	14
Telecommunicator – Lead Call Taker	45323	RC-014	16
Telecommunicator Lead Worker	45324	RC-014	14
Telecommunicator Trainee	45325	RC-014	10
Telecommunicator Specialist	45326	RC-014	15
Telecommunicator Lead Specialist	45327	RC-014	17
Vehicle Permit Evaluator	47585	RC-014	11
Veterans Service Officer Associate	47804	RC-014	13

NOTE: RC-014-TR is at least the minimum wage and below the minimum rate in the pay grade of the targeted title. The targeted title is the lowest entry level position in the office, either Office Aide (pay grade RC-014-02), Office Clerk (pay grade RC-014-04) or, for the Department of Corrections only, Office Assistant (pay grade RC-014-06).

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Bargaining Unit: RC-014**

Pay Grade	Pay Plan Code	S T E P S										
		1c	1b	1a	1	2	3	4	5	6	7	8
02	B	1992	2039	2087	2135	2183	2231	2292	2343	2397	2486	2561
02	Q	2069	2117	2167	2219	2268	2320	2381	2438	2492	2585	2663
02	S	2127	2174	2225	2277	2326	2376	2440	2495	2551	2644	2723
02H	B	12.26	12.55	12.84	13.14	13.43	13.73	14.10	14.42	14.75	15.30	15.76
02H	Q	12.73	13.03	13.34	13.66	13.96	14.28	14.65	15.00	15.34	15.91	16.39

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

02H	S	13.09	13.38	13.69	14.01	14.31	14.62	15.02	15.35	15.70	16.27	16.76
03	B	2035	2082	2131	2183	2231	2293	2347	2402	2459	2561	2640
03	Q	2113	2163	2215	2268	2320	2382	2441	2497	2556	2664	2743
03	S	2170	2221	2272	2326	2376	2441	2498	2555	2613	2722	2803
03.5	B	2080	2129	2181	2231	2289	2347	2404	2459	2521	2629	2707
03.5	Q	2161	2212	2266	2320	2378	2441	2499	2556	2621	2733	2815
03.5	S	2218	2270	2324	2376	2438	2498	2557	2613	2679	2791	2876
04	B	2080	2129	2181	2231	2293	2353	2406	2474	2528	2637	2715
04	Q	2161	2212	2266	2320	2382	2445	2501	2571	2629	2741	2823
04	S	2218	2270	2324	2376	2441	2502	2560	2630	2685	2799	2883
04.5	B	2132	2184	2235	2289	2347	2405	2469	2533	2591	2701	2781
04.5	Q	2216	2269	2324	2378	2441	2500	2566	2633	2694	2810	2893
04.5	S	2273	2327	2380	2438	2498	2559	2623	2689	2754	2868	2954
05	B	2135	2187	2238	2293	2356	2418	2481	2541	2603	2710	2792
05	Q	2219	2272	2327	2382	2447	2514	2578	2642	2707	2819	2904
05	S	2277	2330	2384	2441	2504	2571	2638	2701	2765	2877	2962
05.5	B	2187	2238	2293	2347	2406	2479	2540	2603	2671	2779	2863
05.5	Q	2272	2327	2382	2441	2501	2576	2641	2707	2779	2891	2979
05.5	S	2330	2384	2441	2498	2560	2635	2700	2765	2837	2950	3040
06	B	2193	2246	2300	2356	2419	2483	2553	2618	2690	2804	2887
06	Q	2278	2333	2390	2447	2515	2582	2655	2724	2797	2917	3003
06	S	2335	2392	2447	2504	2572	2640	2714	2782	2855	2977	3066
07	B	2253	2306	2363	2419	2486	2559	2632	2703	2778	2905	2991
07	Q	2339	2397	2454	2515	2585	2662	2737	2812	2890	3025	3116
07	S	2398	2453	2513	2572	2644	2719	2794	2870	2948	3085	3177

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08	B	2313	2370	2428	2486	2565	2642	2724	2799	2878	3015	3104
08	Q	2404	2462	2524	2585	2669	2746	2835	2910	2998	3140	3233
08	S	2461	2520	2580	2644	2725	2804	2893	2972	3058	3200	3296
09	B	2384	2443	2503	2565	2645	2730	2814	2904	2990	3131	3224
09	Q	2480	2540	2603	2669	2751	2841	2928	3023	3114	3262	3361
09	S	2537	2599	2660	2725	2809	2898	2988	3084	3174	3325	3424
10	B	2461	2521	2584	2648	2745	2826	2920	3012	3105	3263	3362
10	Q	2559	2621	2686	2755	2854	2942	3041	3137	3235	3407	3507
10	S	2615	2679	2744	2812	2912	3001	3100	3196	3299	3471	3575
10.5	B	2534	2596	2660	2726	2814	2910	2999	3104	3194	3357	3458
10.5	Q	2634	2701	2768	2838	2928	3030	3124	3233	3330	3503	3609
10.5	S	2690	2758	2825	2895	2988	3091	3184	3298	3395	3570	3676
11	B	2549	2612	2679	2746	2839	2931	3036	3137	3234	3405	3508
11	Q	2651	2717	2785	2855	2957	3054	3163	3269	3373	3555	3661
11	S	2710	2775	2843	2913	3017	3113	3223	3331	3438	3618	3728
12	B	2649	2715	2783	2855	2960	3058	3172	3276	3397	3579	3686
12	Q	2756	2824	2896	2973	3083	3185	3308	3420	3545	3738	3850
12	S	2814	2882	2955	3031	3143	3247	3371	3484	3611	3805	3919
12.5	B	2711	2779	2851	2924	3032	3138	3256	3368	3478	3669	3779
12.5	Q	2820	2891	2966	3046	3158	3271	3397	3517	3632	3835	3950
12.5	S	2878	2950	3027	3105	3219	3333	3464	3582	3698	3903	4020
13	B	2746	2815	2887	2963	3072	3189	3309	3430	3558	3755	3869
13	Q	2855	2930	3006	3086	3200	3326	3455	3581	3713	3925	4043
13	S	2913	2989	3066	3146	3261	3389	3521	3646	3781	3992	4112
14	B	2857	2931	3011	3090	3208	3333	3478	3606	3743	3960	4079
14	Q	2975	3054	3136	3220	3345	3480	3632	3768	3912	4140	4264

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14	S	3033	3113	3195	3282	3411	3544	3698	3834	3979	4205	4331
15	B	2967	3046	3128	3213	3354	3493	3630	3778	3918	4153	4279
15	Q	3091	3173	3260	3351	3500	3646	3792	3950	4095	4340	4470
15	S	3151	3232	3323	3415	3565	3709	3860	4016	4160	4407	4538
16	B	3099	3183	3269	3363	3514	3669	3822	3982	4141	4385	4517
16	Q	3228	3318	3413	3511	3669	3835	3995	4159	4327	4584	4722
16	S	3292	3383	3477	3577	3736	3903	4064	4227	4395	4648	4790
17	B	3237	3328	3424	3524	3686	3856	4020	4182	4352	4611	4749
17	Q	3377	3474	3575	3677	3853	4030	4199	4370	4548	4819	4965
17	S	3440	3539	3640	3744	3921	4099	4268	4438	4614	4888	5035
18	B	3402	3500	3601	3708	3887	4069	4253	4427	4604	4879	5026
18	Q	3551	3653	3762	3875	4066	4252	4447	4629	4812	5100	5252
18	S	3615	3717	3830	3940	4131	4320	4512	4695	4881	5165	5321
19	B	3580	3684	3793	3909	4108	4302	4502	4691	4886	5183	5338
19	Q	3739	3850	3966	4084	4293	4493	4706	4902	5108	5416	5578
19	S	3806	3919	4035	4152	4361	4562	4772	4970	5176	5483	5647
20	B	3781	3895	4011	4130	4339	4540	4756	4963	5168	5482	5646
20	Q	3953	4071	4191	4316	4534	4747	4971	5185	5401	5731	5903
20	S	4018	4138	4258	4384	4600	4812	5038	5252	5467	5795	5971
TR		TR										

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Pay Grade	Pay Plan Code	S T E P S										
		1c	1b	1a	1	2	3	4	5	6	7	8

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02	B	2012	2059	2108	2156	2205	2253	2315	2366	2421	2511	2587
02	Q	2090	2138	2189	2241	2291	2343	2405	2462	2517	2611	2690
02	S	2148	2196	2247	2300	2349	2400	2464	2520	2577	2670	2750
02H	B	12.38	12.67	12.97	13.27	13.57	13.86	14.25	14.56	14.90	15.45	15.92
02H	Q	12.86	13.16	13.47	13.79	14.10	14.42	14.80	15.15	15.49	16.07	16.55
02H	S	13.22	13.51	13.83	14.15	14.46	14.77	15.16	15.51	15.86	16.43	16.92
03	B	2055	2103	2152	2205	2253	2316	2370	2426	2484	2587	2666
03	Q	2134	2185	2237	2291	2343	2406	2465	2522	2582	2691	2770
03	S	2192	2243	2295	2349	2400	2465	2523	2581	2639	2749	2831
03.5	B	2101	2150	2203	2253	2312	2370	2428	2484	2546	2655	2734
03.5	Q	2183	2234	2289	2343	2402	2465	2524	2582	2647	2760	2843
03.5	S	2240	2293	2347	2400	2462	2523	2583	2639	2706	2819	2905
04	B	2101	2150	2203	2253	2316	2377	2430	2499	2553	2663	2742
04	Q	2183	2234	2289	2343	2406	2469	2526	2597	2655	2768	2851
04	S	2240	2293	2347	2400	2465	2527	2586	2656	2712	2827	2912
04.5	B	2153	2206	2257	2312	2370	2429	2494	2558	2617	2728	2809
04.5	Q	2238	2292	2347	2402	2465	2525	2592	2659	2721	2838	2922
04.5	S	2296	2350	2404	2462	2523	2585	2649	2716	2782	2897	2984
05	B	2156	2209	2260	2316	2380	2442	2506	2566	2629	2737	2820
05	Q	2241	2295	2350	2406	2471	2539	2604	2668	2734	2847	2933
05	S	2300	2353	2408	2465	2529	2597	2664	2728	2793	2906	2992
05.5	B	2209	2260	2316	2370	2430	2504	2565	2629	2698	2807	2892
05.5	Q	2295	2350	2406	2465	2526	2602	2667	2734	2807	2920	3009
05.5	S	2353	2408	2465	2523	2586	2661	2727	2793	2865	2980	3070
06	B	2215	2268	2323	2380	2443	2508	2579	2644	2717	2832	2916

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

06	Q	2301	2356	2414	2471	2540	2608	2682	2751	2825	2946	3033
06	S	2358	2416	2471	2529	2598	2666	2741	2810	2884	3007	3097
07	B	2276	2329	2387	2443	2511	2585	2658	2730	2806	2934	3021
07	Q	2362	2421	2479	2540	2611	2689	2764	2840	2919	3055	3147
07	S	2422	2478	2538	2598	2670	2746	2822	2899	2977	3116	3209
08	B	2336	2394	2452	2511	2591	2668	2751	2827	2907	3045	3135
08	Q	2428	2487	2549	2611	2696	2773	2863	2939	3028	3171	3265
08	S	2486	2545	2606	2670	2752	2832	2922	3002	3089	3232	3329
09	B	2408	2467	2528	2591	2671	2757	2842	2933	3020	3162	3256
09	Q	2505	2565	2629	2696	2779	2869	2957	3053	3145	3295	3395
09	S	2562	2625	2687	2752	2837	2927	3018	3115	3206	3358	3458
10	B	2486	2546	2610	2674	2772	2854	2949	3042	3136	3296	3396
10	Q	2585	2647	2713	2783	2883	2971	3071	3168	3267	3441	3542
10	S	2641	2706	2771	2840	2941	3031	3131	3228	3332	3506	3611
10.5	B	2559	2622	2687	2753	2842	2939	3029	3135	3226	3391	3493
10.5	Q	2660	2728	2796	2866	2957	3060	3155	3265	3363	3538	3645
10.5	S	2717	2786	2853	2924	3018	3122	3216	3331	3429	3606	3713
11	B	2574	2638	2706	2773	2867	2960	3066	3168	3266	3439	3543
11	Q	2678	2744	2813	2884	2987	3085	3195	3302	3407	3591	3698
11	S	2737	2803	2871	2942	3047	3144	3255	3364	3472	3654	3765
12	B	2675	2742	2811	2884	2990	3089	3204	3309	3431	3615	3723
12	Q	2784	2852	2925	3003	3114	3217	3341	3454	3580	3775	3889
12	S	2842	2911	2985	3061	3174	3279	3405	3519	3647	3843	3958
12.5	B	2738	2807	2880	2953	3062	3169	3289	3402	3513	3706	3817
12.5	Q	2848	2920	2996	3076	3190	3304	3431	3552	3668	3873	3990
12.5	S	2907	2980	3057	3136	3251	3366	3499	3618	3735	3942	4060

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13	B	2773	2843	2916	2993	3103	3221	3342	3464	3594	3793	3908
13	Q	2884	2959	3036	3117	3232	3359	3490	3617	3750	3964	4083
13	S	2942	3019	3097	3177	3294	3423	3556	3682	3819	4032	4153
14	B	2886	2960	3041	3121	3240	3366	3513	3642	3780	4000	4120
14	Q	3005	3085	3167	3252	3378	3515	3668	3806	3951	4181	4307
14	S	3063	3144	3227	3315	3445	3579	3735	3872	4019	4247	4374
15	B	2997	3076	3159	3245	3388	3528	3666	3816	3957	4195	4322
15	Q	3122	3205	3293	3385	3535	3682	3830	3990	4136	4383	4515
15	S	3183	3264	3356	3449	3601	3746	3899	4056	4202	4451	4583
16	B	3130	3215	3302	3397	3549	3706	3860	4022	4182	4429	4562
16	Q	3260	3351	3447	3546	3706	3873	4035	4201	4370	4630	4769
16	S	3325	3417	3512	3613	3773	3942	4105	4269	4439	4694	4838
17	B	3269	3361	3458	3559	3723	3895	4060	4224	4396	4657	4796
17	Q	3411	3509	3611	3714	3892	4070	4241	4414	4593	4867	5015
17	S	3474	3574	3676	3781	3960	4140	4311	4482	4660	4937	5085
18	B	3436	3535	3637	3745	3926	4110	4296	4471	4650	4928	5076
18	Q	3587	3690	3800	3914	4107	4295	4491	4675	4860	5151	5305
18	S	3651	3754	3868	3979	4172	4363	4557	4742	4930	5217	5374
19	B	3616	3721	3831	3948	4149	4345	4547	4738	4935	5235	5391
19	Q	3776	3889	4006	4125	4336	4538	4753	4951	5159	5470	5634
19	S	3844	3958	4075	4194	4405	4608	4820	5020	5228	5538	5703
20	B	3819	3934	4051	4171	4382	4585	4804	5013	5220	5537	5702
20	Q	3993	4112	4233	4359	4579	4794	5021	5237	5455	5788	5962
20	S	4058	4179	4301	4428	4646	4860	5088	5305	5522	5853	6031

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NOTICE OF EMERGENCY AMENDMENTS

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE Q RC-033 (Meat Inspectors, IFPE)****EMERGENCY**

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Plan Code</u>
<u>Meat and Poultry Inspector</u>	<u>26070</u>	<u>RC-033</u>	<u>B</u>
<u>Meat and Poultry Inspector Trainee</u>	<u>26075</u>	<u>RC-033</u>	<u>B</u>

Effective July 1, 2006

Title	STEPS						
	1	2	3	4	5	6	7
Meat and Poultry Inspector	3145	3281	3413	3542	3679	3886	3964
Meat and Poultry Inspector Trainee	2667	2763	2869	2972	3077	3249	3311

Effective January 1, 2007

Title	STEPS						
	1	2	3	4	5	6	7
Meat and Poultry Inspector	3176	3314	3447	3577	3716	3925	4004
Meat and Poultry Inspector Trainee	2694	2791	2898	3002	3108	3281	3344

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

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NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE W RC-062 (Technical Employees, AFSCME)****EMERGENCY**

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Grade</u>
Accountant	00130	RC-062	14
Accountant Advanced	00133	RC-062	16
Accounting and Fiscal Administration Career Trainee	00140	RC-062	12
Activity Therapist	00157	RC-062	15
Activity Therapist Coordinator	00160	RC-062	17
Actuarial Assistant	00187	RC-062	16
Actuarial Examiner	00195	RC-062	16
Actuarial Examiner Trainee	00196	RC-062	13
Actuarial Senior Examiner	00197	RC-062	19
Actuary I	00201	RC-062	20
Actuary II	00202	RC-062	24
Agricultural Market News Assistant	00804	RC-062	12
Agricultural Marketing Generalist	00805	RC-062	14
Agricultural Marketing Reporter	00807	RC-062	18
Agricultural Marketing Representative	00810	RC-062	18
Agriculture Land and Water Resource Specialist I	00831	RC-062	14
Agriculture Land and Water Resource Specialist II	00832	RC-062	17
Agriculture Land and Water Resource Specialist III	00833	RC-062	20
Aircraft Pilot I	00955	RC-062	19
Aircraft Pilot II	00956	RC-062	22
Aircraft Pilot II – Dual Rating	00957	RC-062	23
Appraisal Specialist I	01251	RC-062	14
Appraisal Specialist II	01252	RC-062	16
Appraisal Specialist III	01253	RC-062	18
Arts Council Associate	01523	RC-062	12
Arts Council Program Coordinator	01526	RC-062	18
Arts Council Program Representative	01527	RC-062	15
Assignment Coordinator	01530	RC-062	20
Bank Examiner I	04131	RC-062	16
Bank Examiner II	04132	RC-062	19
Bank Examiner III	04133	RC-062	22
Behavioral Analyst Associate	04355	RC-062	15
Behavioral Analyst I	04351	RC-062	17

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Behavioral Analyst II	04352	RC-062	19
Business Administrative Specialist	05810	RC-062	16
Buyer	05900	RC-062	18
Capital Development Board Account Technician	06515	RC-062	11
Capital Development Board Art in Architecture Technician	06533	RC-062	12
Capital Development Board Construction Support Analyst	06520	RC-062	11
Capital Development Board Project Technician	06530	RC-062	12
Chemist I	06941	RC-062	16
Chemist II	06942	RC-062	19
Chemist III	06943	RC-062	21
Child Protection Advanced Specialist	07161	RC-062	19
Child Protection Associate Specialist	07162	RC-062	16
Child Protection Specialist	07163	RC-062	18
Child Welfare Associate Specialist	07216	RC-062	16
Child Welfare Staff Development Coordinator I	07201	RC-062	17
Child Welfare Staff Development Coordinator II	07202	RC-062	19
Child Welfare Staff Development Coordinator III	07203	RC-062	20
Child Welfare Staff Development Coordinator IV	07204	RC-062	22
Children and Family Service Intern – Option I	07241	RC-062	12
Children and Family Service Intern – Option II	07242	RC-062	15
Clinical Laboratory Technologist I	08220	RC-062	18
Clinical Laboratory Technologist II	08221	RC-062	19
Clinical Laboratory Technologist Trainee	08229	RC-062	14
Communications Systems Specialist	08860	RC-062	23
Community Management Specialist I	08891	RC-062	15
Community Management Specialist II	08892	RC-062	17
Community Management Specialist III	08893	RC-062	19
Community Planner I	08901	RC-062	15
Community Planner II	08902	RC-062	17
Community Planner III	08903	RC-062	19
Conservation Education Representative	09300	RC-062	12
Conservation Grant Administrator I	09311	RC-062	18
Conservation Grant Administrator II	09312	RC-062	20
Conservation Grant Administrator III	09313	RC-062	22
Construction Program Assistant	09525	RC-062	12
Correctional Counselor I	09661	RC-062	15
Correctional Counselor II	09662	RC-062	17
Correctional Counselor III	09663	RC-062	19
Corrections Academy Trainer	09732	RC-062	17
Corrections Apprehension Specialist	09750	RC-062	19

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Corrections Industries Marketing Representative	09803	RC-062	17
Corrections Leisure Activities Specialist I	09811	RC-062	15
Corrections Leisure Activities Specialist II	09812	RC-062	17
Corrections Leisure Activities Specialist III	09813	RC-062	19
Corrections Parole Agent	09842	RC-062	17
Corrections Senior Parole Agent	09844	RC-062	19
Criminal Intelligence Analyst I	10161	RC-062	18
Criminal Intelligence Analyst II	10162	RC-062	20
Criminal Intelligence Analyst Specialist	10165	RC-062	22
Criminal Justice Specialist I	10231	RC-062	16
Criminal Justice Specialist II	10232	RC-062	20
Criminal Justice Specialist Trainee	10236	RC-062	13
Curator of the Lincoln Collection	10750	RC-062	16
Day Care Licensing Representative I	11471	RC-062	16
Developmental Disabilities Council Program Planner I	12361	RC-062	12
Developmental Disabilities Council Program Planner II	12362	RC-062	16
Developmental Disabilities Council Program Planner III	12363	RC-062	18
Dietitian	12510	RC-062	15
Disability Appeals Officer	12530	RC-062	22
Disability Claims Adjudicator I	12537	RC-062	16
Disability Claims Adjudicator II	12538	RC-062	18
Disability Claims Adjudicator Trainee	12539	RC-062	13
Disability Claims Analyst	12540	RC-062	21
Disability Claims Specialist	12558	RC-062	19
Disaster Services Planner	12585	RC-062	19
Document Examiner	12640	RC-062	22
Educator – Provisional	13105	RC-062	12
Employment Security Manpower Representative I	13621	RC-062	12
Employment Security Manpower Representative II	13622	RC-062	14
Employment Security Program Representative	13650	RC-062	14
Employment Security Program Representative – Intermittent	13651	RC-062	14H
Employment Security Service Representative	13667	RC-062	16
Employment Security Specialist I	13671	RC-062	14
Employment Security Specialist II	13672	RC-062	16
Employment Security Specialist III	13673	RC-062	19
Employment Security Tax Auditor I	13681	RC-062	17
Employment Security Tax Auditor II	13682	RC-062	19
Energy and Natural Resources Specialist I	13711	RC-062	15
Energy and Natural Resources Specialist II	13712	RC-062	17
Energy and Natural Resources Specialist III	13713	RC-062	19

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Energy and Natural Resources Specialist Trainee	13715	RC-062	12
Environmental Health Specialist I	13768	RC-062	14
Environmental Health Specialist II	13769	RC-062	16
Environmental Health Specialist III	13770	RC-062	18
Environmental Protection Associate	13785	RC-062	12
Environmental Protection Specialist I	13821	RC-062	14
Environmental Protection Specialist II	13822	RC-062	16
Environmental Protection Specialist III	13823	RC-062	18
Environmental Protection Specialist IV	13824	RC-062	22
Equal Pay Specialist	13837	RC-062	17
Executive I	13851	RC-062	18
Financial Institutions Examiner I	14971	RC-062	16
Financial Institutions Examiner II	14972	RC-062	19
Financial Institutions Examiner III	14973	RC-062	22
Financial Institutions Examiner Trainee	14978	RC-062	13
Flight Safety Coordinator	15640	RC-062	22
Forensic Scientist I	15891	RC-062	18
Forensic Scientist II	15892	RC-062	20
Forensic Scientist III	15893	RC-062	22
Forensic Scientist Trainee	15897	RC-062	15
Guardianship Representative	17710	RC-062	17
Habilitation Program Coordinator	17960	RC-062	17
Handicapped Services Representative I	17981	RC-062	11
Health Facilities Surveyor I	18011	RC-062	16
Health Facilities Surveyor II	18012	RC-062	19
Health Facilities Surveyor III	18013	RC-062	20
Health Services Investigator I – Opt. A	18181	RC-062	19
Health Services Investigator I – Opt. B	18182	RC-062	20
Health Services Investigator II – Opt. A	18185	RC-062	22
Health Services Investigator II – Opt. B	18186	RC-062	22
Health Services Investigator II – Opt. C	18187	RC-062	25
Health Services Investigator II – Opt. D	18188	RC-062	25
Historical Documents Conservator I	18981	RC-062	13
Historical Exhibits Designer	18985	RC-062	15
Historical Research Editor II	19002	RC-062	14
Human Relations Representative	19670	RC-062	16
Human Rights Investigator I	19774	RC-062	16
Human Rights Investigator II	19775	RC-062	18
Human Rights Investigator III	19776	RC-062	19
Human Rights Specialist I	19778	RC-062	14

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Human Rights Specialist II	19779	RC-062	16
Human Rights Specialist III	19780	RC-062	18
Human Services Caseworker	19785	RC-062	16
Human Services Grants Coordinator I	19791	RC-062	14
Human Services Grants Coordinator II	19792	RC-062	17
Human Services Grants Coordinator III	19793	RC-062	20
Human Services Grants Coordinator Trainee	19796	RC-062	12
Human Services Sign Language Interpreter	19810	RC-062	16
Iconographer	19880	RC-062	12
Industrial and Community Development Representative I	21051	RC-062	17
Industrial and Community Development Representative II	21052	RC-062	19
Industrial Services Consultant I	21121	RC-062	14
Industrial Services Consultant II	21122	RC-062	16
Industrial Services Consultant Trainee	21125	RC-062	11
Industrial Services Hygienist	21127	RC-062	19
Industrial Services Hygienist Technician	21130	RC-062	16
Industrial Services Hygienist Trainee	21133	RC-062	12
Information Technology/Communication Systems Specialist I	21216	RC-062	19
Information Technology/Communication Systems Specialist II	21217	RC-062	24
Instrument Designer	21500	RC-062	18
Insurance Analyst III	21563	RC-062	14
Insurance Analyst IV	21564	RC-062	16
Insurance Company Claims Examiner II	21602	RC-062	19
Insurance Company Field Staff Examiner	21608	RC-062	16
Insurance Company Financial Examiner Trainee	21610	RC-062	13
Insurance Performance Examiner I	21671	RC-062	14
Insurance Performance Examiner II	21672	RC-062	17
Insurance Performance Examiner III	21673	RC-062	20
Intermittent Unemployment Insurance Representative	21689	RC-062	12H
Internal Auditor I	21721	RC-062	17
Labor Conciliator	22750	RC-062	20
Laboratory Equipment Specialist	22990	RC-062	18
Laboratory Quality Specialist I	23021	RC-062	19
Laboratory Quality Specialist II	23022	RC-062	21
Laboratory Research Specialist I	23027	RC-062	19
Laboratory Research Specialist II	23028	RC-062	21
Land Acquisition Agent I	23091	RC-062	15
Land Acquisition Agent II	23092	RC-062	18
Land Acquisition Agent III	23093	RC-062	21
Land Reclamation Specialist I	23131	RC-062	14

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Land Reclamation Specialist II	23132	RC-062	17
Liability Claims Adjuster I	23371	RC-062	14
Liability Claims Adjuster II	23372	RC-062	18
Library Associate	23430	RC-062	12
Life Sciences Career Trainee	23600	RC-062	12
Liquor Control Special Agent II	23752	RC-062	15
Local Historical Services Representative	24000	RC-062	17
Local Housing Advisor I	24031	RC-062	14
Local Housing Advisor II	24032	RC-062	16
Local Housing Advisor III	24033	RC-062	18
Local Revenue and Fiscal Advisor I	24101	RC-062	15
Local Revenue and Fiscal Advisor II	24102	RC-062	17
Local Revenue and Fiscal Advisor III	24103	RC-062	19
Lottery Regional Coordinator	24504	RC-062	19
Lottery Sales Representative	24515	RC-062	16
Management Operations Analyst I	25541	RC-062	18
Management Operations Analyst II	25542	RC-062	20
Manpower Planner I	25591	RC-062	14
Manpower Planner II	25592	RC-062	17
Manpower Planner III	25593	RC-062	20
Manpower Planner Trainee	25597	RC-062	12
Medical Assistance Consultant I	26501	RC-062	13
Medical Assistance Consultant II	26502	RC-062	16
Medical Assistance Consultant III	26503	RC-062	19
Mental Health Specialist I	26924	RC-062	12
Mental Health Specialist II	26925	RC-062	14
Mental Health Specialist III	26926	RC-062	16
Mental Health Specialist Trainee	26928	RC-062	11
Meteorologist	27120	RC-062	18
Methods and Procedures Advisor I	27131	RC-062	14
Methods and Procedures Advisor II	27132	RC-062	16
Methods and Procedures Advisor III	27133	RC-062	20
Methods and Procedures Career Associate I	27135	RC-062	11
Methods and Procedures Career Associate II	27136	RC-062	12
Methods and Procedures Career Associate Trainee	27137	RC-062	09
Metrologist Associate	27146	RC-062	15
Microbiologist I	27151	RC-062	16
Microbiologist II	27152	RC-062	19
Natural Resources Advanced Specialist	28833	RC-062	20
Natural Resources Coordinator	28831	RC-062	15

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Natural Resources Specialist	28832	RC-062	18
Oral Health Consultant	30317	RC-062	18
Paralegal Assistant	30860	RC-062	14
Pension and Death Benefits Technician II	30962	RC-062	16
Police Training Specialist	32990	RC-062	17
Program Integrity Auditor I	34631	RC-062	16
Program Integrity Auditor II	34632	RC-062	19
Program Integrity Auditor Trainee	34635	RC-062	12
Property Consultant	34900	RC-062	15
Property Tax Analyst I	34921	RC-062	12
Property Tax Analyst II	34922	RC-062	14
Public Aid Appeals Advisor	35750	RC-062	18
Public Aid Family Support Specialist I	35841	RC-062	17
Public Aid Investigator	35870	RC-062	19
Public Aid Investigator Trainee	35874	RC-062	14
Public Aid Lead Casework Specialist	35880	RC-062	17
Public Aid Program Quality Analyst	35890	RC-062	19
Public Aid Quality Control Reviewer	35892	RC-062	17
Public Aid Staff Development Specialist I	36071	RC-062	15
Public Aid Staff Development Specialist II	36072	RC-062	17
Public Health Educator Associate	36434	RC-062	14
Public Health Program Specialist I	36611	RC-062	14
Public Health Program Specialist II	36612	RC-062	16
Public Health Program Specialist III	36613	RC-062	19
Public Health Program Specialist Trainee	36615	RC-062	12
Public Information Coordinator	36750	RC-062	18
Public Information Officer I	37001	RC-062	12
Public Information Officer II	37002	RC-062	14
Public Information Officer III	37003	RC-062	19
Public Information Officer IV	37004	RC-062	21
Public Safety Inspector	37007	RC-062	16
Public Safety Inspector Trainee	37010	RC-062	10
Railroad Safety Specialist I	37601	RC-062	19
Railroad Safety Specialist II	37602	RC-062	21
Railroad Safety Specialist III	37603	RC-062	23
Railroad Safety Specialist IV	37604	RC-062	25
Real Estate Investigator	37730	RC-062	19
Real Estate Professions Examiner	37760	RC-062	22
Recreation Worker I	38001	RC-062	12
Recreation Worker II	38002	RC-062	14

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Rehabilitation Counselor	38145	RC-062	17
Rehabilitation Counselor Senior	38158	RC-062	19
Rehabilitation Counselor Trainee	38159	RC-062	15
Rehabilitation Services Advisor I	38176	RC-062	20
Rehabilitation Workshop Supervisor I	38194	RC-062	12
Rehabilitation Workshop Supervisor II	38195	RC-062	14
Reimbursement Officer I	38199	RC-062	14
Reimbursement Officer II	38200	RC-062	16
Research Economist I	38207	RC-062	18
Research Scientist I	38231	RC-062	13
Research Scientist II	38232	RC-062	16
Research Scientist III	38233	RC-062	20
Resource Planner I	38281	RC-062	17
Resource Planner II	38282	RC-062	19
Resource Planner III	38283	RC-062	22
Retirement System Disability Specialist	38310	RC-062	19
Revenue Auditor I (IL)	38371	RC-062	16
Revenue Auditor I (states other than IL, CA or NJ)	38371	RC-062	19
Revenue Auditor I (CA or NJ)	38371	RC-062	21
Revenue Auditor II (IL)	38372	RC-062	19
Revenue Auditor II (states other than IL, CA or NJ)	38372	RC-062	22
Revenue Auditor II (CA or NJ)	38372	RC-062	24
Revenue Auditor III (IL)	38373	RC-062	22
Revenue Auditor III (states other than IL, CA or NJ)	38373	RC-062	24
Revenue Auditor III (CA or NJ)	38373	RC-062	26
Revenue Auditor Trainee (IL)	38375	RC-062	12
Revenue Auditor Trainee (states other than IL, CA or NJ)	38375	RC-062	13
Revenue Auditor Trainee (CA or NJ)	38375	RC-062	15
Revenue Collection Officer I	38401	RC-062	15
Revenue Collection Officer II	38402	RC-062	17
Revenue Collection Officer III	38403	RC-062	19
Revenue Collection Officer Trainee	38405	RC-062	12
Revenue Computer Audit Specialist (IL)	38425	RC-062	23
Revenue Computer Audit Specialist (states other than IL, CA or NJ)	38425	RC-062	25
Revenue Computer Audit Specialist (CA or NJ)	38425	RC-062	27
Revenue Senior Special Agent	38557	RC-062	23
Revenue Special Agent	38558	RC-062	19
Revenue Special Agent Trainee	38565	RC-062	14
Revenue Tax Specialist I	38571	RC-062	12

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Revenue Tax Specialist II (IL)	38572	RC-062	14
Revenue Tax Specialist II (states other than IL, CA or NJ)	38572	RC-062	17
Revenue Tax Specialist II (CA or NJ)	38572	RC-062	19
Revenue Tax Specialist III	38573	RC-062	17
Revenue Tax Specialist Trainee	38575	RC-062	10
Site Assistant Superintendent I	41071	RC-062	15
Site Assistant Superintendent II	41072	RC-062	17
Site Interpretive Coordinator	41093	RC-062	13
Site Services Specialist I	41117	RC-062	15
Site Services Specialist II	41118	RC-062	17
Social Service Consultant I	41301	RC-062	18
Social Service Consultant II	41302	RC-062	19
Social Service Program Planner I	41311	RC-062	15
Social Service Program Planner II	41312	RC-062	17
Social Service Program Planner III	41313	RC-062	20
Social Service Program Planner IV	41314	RC-062	22
Social Services Career Trainee	41320	RC-062	12
Social Worker I	41411	RC-062	16
Staff Development Specialist I	41771	RC-062	18
Staff Development Technician I	41781	RC-062	12
State Mine Inspector	42230	RC-062	19
State Police Field Specialist I	42001	RC-062	18
State Police Field Specialist II	42002	RC-062	20
Statistical Research Specialist I	42741	RC-062	12
Statistical Research Specialist II	42742	RC-062	14
Statistical Research Specialist III	42743	RC-062	17
Storage Tank Safety Specialist	43005	RC-062	18
Telecommunications Specialist	45295	RC-062	15
Telecommunications Systems Analyst	45308	RC-062	17
Telecommunications Systems Technician I	45312	RC-062	10
Telecommunications Systems Technician II	45313	RC-062	13
Terrorism Research Specialist I	45371	RC-062	18
Terrorism Research Specialist II	45372	RC-062	20
Terrorism Research Specialist III	45373	RC-062	22
Terrorism Research Specialist Trainee	45375	RC-062	14
Unemployment Insurance Adjudicator I	47001	RC-062	11
Unemployment Insurance Adjudicator II	47002	RC-062	13
Unemployment Insurance Adjudicator III	47003	RC-062	15
Unemployment Insurance Revenue Analyst I	47081	RC-062	15

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Unemployment Insurance Revenue Analyst II	47082	RC-062	17
Unemployment Insurance Revenue Specialist	47087	RC-062	13
Unemployment Insurance Special Agent	47096	RC-062	18
Veterans Educational Specialist I	47681	RC-062	15
Veterans Educational Specialist II	47682	RC-062	17
Veterans Educational Specialist III	47683	RC-062	21
Veterans Employment Representative I	47701	RC-062	14
Veterans Employment Representative II	47702	RC-062	16
Volunteer Services Coordinator I	48481	RC-062	13
Volunteer Services Coordinator II	48482	RC-062	16
Volunteer Services Coordinator III	48483	RC-062	18
Wage Claims Specialist	48770	RC-062	09
Weatherization Specialist I	49101	RC-062	14
Weatherization Specialist II	49102	RC-062	17
Weatherization Specialist III	49103	RC-062	20
Weatherization Specialist Trainee	49105	RC-062	12
Workers Compensation Insurance Compliance Investigator	49640	RC-062	20

NOTE: For the Revenue Auditor I, II and III and Revenue Auditor Trainee position classification titles only – The pay grade assigned to the employee is based on the location of the position and the residence held by the employee. In the same position classification, the employee holding a position and residence outside the boundaries of the State of Illinois is assigned to a different pay grade than the pay grade assigned to the employee holding a position within the boundaries of the State of Illinois. The pay grade assigned to the employee holding a position located within the boundaries of the State of Illinois is the pay grade with the (IL) indication next to the position classification. The pay grade assigned to the employee holding the position located outside the boundaries of the State of Illinois is determined by the location of the employee's residence (e.g., IL, CA or NJ or a state other than IL, CA or NJ). If the employee's residence moves to another state while the employee is in the same position located outside the boundaries of the State of Illinois, or moves into another position located outside the boundaries of the State of Illinois in the same position classification, the base salary may change depending on the location of the employee's new residence. If the employee remains in the position located outside the boundaries of the State of Illinois and moves residence from or into the boundaries of the State of Illinois, the base salary will change. In all cases, change in base salary shall be on a step for step basis (e.g., if the original base salary was on Step 5 in one pay grade, the new base salary will also be on Step 5 of the newly appropriate pay grade).

Effective July 1, 2006

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Bargaining Unit: RC-062

<u>Pay Grade</u>	<u>Pay Plan Code</u>	<u>S T E P S</u>										
		<u>1c</u>	<u>1b</u>	<u>1a</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
09	B	2384	2443	2503	2565	2645	2730	2814	2904	2990	3131	3224
09	Q	2480	2540	2603	2669	2751	2841	2928	3023	3114	3262	3361
09	S	2537	2599	2660	2725	2809	2898	2988	3084	3174	3325	3424
10	B	2461	2521	2584	2648	2745	2826	2920	3012	3105	3263	3362
10	Q	2559	2621	2686	2755	2854	2942	3041	3137	3235	3407	3507
10	S	2615	2679	2744	2812	2912	3001	3100	3196	3299	3471	3575
11	B	2549	2612	2679	2746	2839	2931	3036	3137	3234	3405	3508
11	Q	2651	2717	2785	2855	2957	3054	3163	3269	3373	3555	3661
11	S	2710	2775	2843	2913	3017	3113	3223	3331	3438	3618	3728
12	B	2649	2715	2783	2855	2960	3058	3172	3276	3397	3579	3686
12	Q	2756	2824	2896	2973	3083	3185	3308	3420	3545	3738	3850
12	S	2814	2882	2955	3031	3143	3247	3371	3484	3611	3805	3919
12H	B	16.30	16.71	17.13	17.57	18.22	18.82	19.52	20.16	20.90	22.02	22.68
12H	Q	16.96	17.38	17.82	18.30	18.97	19.60	20.36	21.05	21.82	23.00	23.69
12H	S	17.32	17.74	18.18	18.65	19.34	19.98	20.74	21.44	22.22	23.42	24.12
13	B	2746	2815	2887	2963	3072	3189	3309	3430	3558	3755	3869
13	Q	2855	2930	3006	3086	3200	3326	3455	3581	3713	3925	4043
13	S	2913	2989	3066	3146	3261	3389	3521	3646	3781	3992	4112
14	B	2857	2931	3011	3090	3208	3333	3478	3606	3743	3960	4079
14	Q	2975	3054	3136	3220	3345	3480	3632	3768	3912	4140	4264
14	S	3033	3113	3195	3282	3411	3544	3698	3834	3979	4205	4331
14H	B	17.58	18.04	18.53	19.02	19.74	20.51	21.40	22.19	23.03	24.37	25.10
14H	Q	18.31	18.79	19.30	19.82	20.58	21.42	22.35	23.19	24.07	25.48	26.24
14H	S	18.66	19.16	19.66	20.20	20.99	21.81	22.76	23.59	24.49	25.88	26.65
15	B	2967	3046	3128	3213	3354	3493	3630	3778	3918	4153	4279

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15	Q	3091	3173	3260	3351	3500	3646	3792	3950	4095	4340	4470
15	S	3151	3232	3323	3415	3565	3709	3860	4016	4160	4407	4538
16	B	3099	3183	3269	3363	3514	3669	3822	3982	4141	4385	4517
16	Q	3228	3318	3413	3511	3669	3835	3995	4159	4327	4584	4722
16	S	3292	3383	3477	3577	3736	3903	4064	4227	4395	4648	4790
17	B	3237	3328	3424	3524	3686	3856	4020	4182	4352	4611	4749
17	Q	3377	3474	3575	3677	3853	4030	4199	4370	4548	4819	4965
17	S	3440	3539	3640	3744	3921	4099	4268	4438	4614	4888	5035
18	B	3402	3500	3601	3708	3887	4069	4253	4427	4604	4879	5026
18	Q	3551	3653	3762	3875	4066	4252	4447	4629	4812	5100	5252
18	S	3615	3717	3830	3940	4131	4320	4512	4695	4881	5165	5321
19	B	3580	3684	3793	3909	4108	4302	4502	4691	4886	5183	5338
19	J	3580	3684	3793	3909	4108	4302	4502	4691	4886	5183	5338
19	Q	3739	3850	3966	4084	4293	4493	4706	4902	5108	5416	5578
19	S	3806	3919	4035	4152	4361	4562	4772	4970	5176	5483	5647
20	B	3781	3895	4011	4130	4339	4540	4756	4963	5168	5482	5646
20	Q	3953	4071	4191	4316	4534	4747	4971	5185	5401	5731	5903
20	S	4018	4138	4258	4384	4600	4812	5038	5252	5467	5795	5971
21	B	3991	4112	4235	4360	4585	4806	5031	5260	5479	5821	5996
21	U	3991	4112	4235	4360	4585	4806	5031	5260	5479	5821	5996
21	Q	4172	4298	4424	4557	4793	5021	5258	5497	5727	6083	6267
21	S	4239	4364	4491	4626	4857	5089	5326	5564	5792	6150	6335
22	B	4218	4346	4477	4610	4850	5087	5328	5574	5806	6167	6352
22	Q	4409	4542	4678	4817	5069	5319	5567	5825	6069	6445	6639
22	S	4476	4608	4746	4886	5134	5385	5632	5892	6138	6514	6707
23	B	4477	4610	4748	4889	5149	5413	5670	5932	6189	6578	6775
23	Q	4678	4817	4962	5113	5383	5659	5925	6199	6468	6873	7079
23	S	4746	4886	5031	5179	5449	5725	5992	6265	6534	6940	7149
24	B	4763	4906	5052	5204	5481	5768	6045	6324	6610	7024	7235

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24	J	4763	4906	5052	5204	5481	5768	6045	6324	6610	7024	7235
24	Q	4977	5126	5281	5441	5730	6028	6318	6608	6907	7342	7562
24	S	5045	5193	5348	5507	5794	6093	6384	6676	6975	7408	7629
25	B	5077	5229	5386	5548	5850	6159	6466	6774	7081	7537	7763
25	J	5077	5229	5386	5548	5850	6159	6466	6774	7081	7537	7763
25	Q	5305	5464	5627	5795	6115	6435	6758	7080	7402	7875	8112
25	S	5375	5530	5697	5864	6182	6501	6824	7146	7466	7943	8181
26	B	5365	5526	5693	5920	6244	6574	6908	7230	7555	8043	8284
26	U	5365	5526	5693	5920	6244	6574	6908	7230	7555	8043	8284
27	B	5671	5841	6017	6319	6662	7014	7371	7715	8061	8583	8839
27	U	5671	5841	6017	6319	6662	7014	7371	7715	8061	8583	8839

Effective January 1, 2007
Bargaining Unit: RC-062

Pay Grade	Pay Plan Code	S T E P S										
		1c	1b	1a	1	2	3	4	5	6	7	8
09	B	2408	2467	2528	2591	2671	2757	2842	2933	3020	3162	3256
09	Q	2505	2565	2629	2696	2779	2869	2957	3053	3145	3295	3395
09	S	2562	2625	2687	2752	2837	2927	3018	3115	3206	3358	3458
10	B	2486	2546	2610	2674	2772	2854	2949	3042	3136	3296	3396
10	Q	2585	2647	2713	2783	2883	2971	3071	3168	3267	3441	3542
10	S	2641	2706	2771	2840	2941	3031	3131	3228	3332	3506	3611
11	B	2574	2638	2706	2773	2867	2960	3066	3168	3266	3439	3543
11	Q	2678	2744	2813	2884	2987	3085	3195	3302	3407	3591	3698
11	S	2737	2803	2871	2942	3047	3144	3255	3364	3472	3654	3765
12	B	2675	2742	2811	2884	2990	3089	3204	3309	3431	3615	3723
12	Q	2784	2852	2925	3003	3114	3217	3341	3454	3580	3775	3889
12	S	2842	2911	2985	3061	3174	3279	3405	3519	3647	3843	3958

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

12H	B	16.46	16.87	17.30	17.75	18.40	19.01	19.72	20.36	21.11	22.25	22.91
12H	Q	17.13	17.55	18.00	18.48	19.16	19.80	20.56	21.26	22.03	23.23	23.93
12H	S	17.49	17.91	18.37	18.84	19.53	20.18	20.95	21.66	22.44	23.65	24.36
13	B	2773	2843	2916	2993	3103	3221	3342	3464	3594	3793	3908
13	Q	2884	2959	3036	3117	3232	3359	3490	3617	3750	3964	4083
13	S	2942	3019	3097	3177	3294	3423	3556	3682	3819	4032	4153
14	B	2886	2960	3041	3121	3240	3366	3513	3642	3780	4000	4120
14	Q	3005	3085	3167	3252	3378	3515	3668	3806	3951	4181	4307
14	S	3063	3144	3227	3315	3445	3579	3735	3872	4019	4247	4374
14H	B	17.76	18.22	18.71	19.21	19.94	20.71	21.62	22.41	23.26	24.62	25.35
14H	Q	18.49	18.98	19.49	20.01	20.79	21.63	22.57	23.42	24.31	25.73	26.50
14H	S	18.85	19.35	19.86	20.40	21.20	22.02	22.98	23.83	24.73	26.14	26.92
15	B	2997	3076	3159	3245	3388	3528	3666	3816	3957	4195	4322
15	Q	3122	3205	3293	3385	3535	3682	3830	3990	4136	4383	4515
15	S	3183	3264	3356	3449	3601	3746	3899	4056	4202	4451	4583
16	B	3130	3215	3302	3397	3549	3706	3860	4022	4182	4429	4562
16	Q	3260	3351	3447	3546	3706	3873	4035	4201	4370	4630	4769
16	S	3325	3417	3512	3613	3773	3942	4105	4269	4439	4694	4838
17	B	3269	3361	3458	3559	3723	3895	4060	4224	4396	4657	4796
17	Q	3411	3509	3611	3714	3892	4070	4241	4414	4593	4867	5015
17	S	3474	3574	3676	3781	3960	4140	4311	4482	4660	4937	5085
18	B	3436	3535	3637	3745	3926	4110	4296	4471	4650	4928	5076
18	Q	3587	3690	3800	3914	4107	4295	4491	4675	4860	5151	5305
18	S	3651	3754	3868	3979	4172	4363	4557	4742	4930	5217	5374
19	B	3616	3721	3831	3948	4149	4345	4547	4738	4935	5235	5391
19	J	3616	3721	3831	3948	4149	4345	4547	4738	4935	5235	5391
19	Q	3776	3889	4006	4125	4336	4538	4753	4951	5159	5470	5634
19	S	3844	3958	4075	4194	4405	4608	4820	5020	5228	5538	5703
20	B	3819	3934	4051	4171	4382	4585	4804	5013	5220	5537	5702

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NOTICE OF EMERGENCY AMENDMENTS

20	Q	3993	4112	4233	4359	4579	4794	5021	5237	5455	5788	5962
20	S	4058	4179	4301	4428	4646	4860	5088	5305	5522	5853	6031
21	B	4031	4153	4277	4404	4631	4854	5081	5313	5534	5879	6056
21	U	4031	4153	4277	4404	4631	4854	5081	5313	5534	5879	6056
21	Q	4214	4341	4468	4603	4841	5071	5311	5552	5784	6144	6330
21	S	4281	4408	4536	4672	4906	5140	5379	5620	5850	6212	6398
22	B	4260	4389	4522	4656	4899	5138	5381	5630	5864	6229	6416
22	Q	4453	4587	4725	4865	5120	5372	5623	5883	6130	6509	6705
22	S	4521	4654	4793	4935	5185	5439	5688	5951	6199	6579	6774
23	B	4522	4656	4795	4938	5200	5467	5727	5991	6251	6644	6843
23	Q	4725	4865	5012	5164	5437	5716	5984	6261	6533	6942	7150
23	S	4793	4935	5081	5231	5503	5782	6052	6328	6599	7009	7220
24	B	4811	4955	5103	5256	5536	5826	6105	6387	6676	7094	7307
24	J	4811	4955	5103	5256	5536	5826	6105	6387	6676	7094	7307
24	Q	5027	5177	5334	5495	5787	6088	6381	6674	6976	7415	7638
24	S	5095	5245	5401	5562	5852	6154	6448	6743	7045	7482	7705
25	B	5128	5281	5440	5603	5909	6221	6531	6842	7152	7612	7841
25	J	5128	5281	5440	5603	5909	6221	6531	6842	7152	7612	7841
25	Q	5358	5519	5683	5853	6176	6499	6826	7151	7476	7954	8193
25	S	5429	5585	5754	5923	6244	6566	6892	7217	7541	8022	8263
26	B	5419	5581	5750	5979	6306	6640	6977	7302	7631	8123	8367
26	U	5419	5581	5750	5979	6306	6640	6977	7302	7631	8123	8367
27	B	5728	5899	6077	6382	6729	7084	7445	7792	8142	8669	8927
27	U	5728	5899	6077	6382	6729	7084	7445	7792	8142	8669	8927

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE X RC-063 (Professional Employees, AFSCME)****EMERGENCY**

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Grade</u>
Architect	01440	RC-063	22
Chaplain I	06901	RC-063	16
Chaplain II	06902	RC-063	19
Child Welfare Administrative Case Reviewer	07190	RC-063	22
Child Welfare Advanced Specialist	07215	RC-063	19
Child Welfare Court Facilitator	07196	RC-063	22
Child Welfare Senior Specialist	07217	RC-063	22
Child Welfare Specialist	07218	RC-063	18
Child Welfare Supervisor	07230	RC-063	22
Civil Engineer I	07601	RC-063	15
Civil Engineer II	07602	RC-063	17
Civil Engineer III	07603	RC-063	19
Civil Engineer IV	07604	RC-063	22
Clinical Pharmacist	08235	RC-063	25
Clinical Psychologist	08250	RC-063	23
Day Care Licensing Representative II	11472	RC-063	18
Dentist I	11751	RC-063	23
Dentist II	11752	RC-063	26
Environmental Engineer I	13751	RC-063	15
Environmental Engineer II	13752	RC-063	17
Environmental Engineer III	13753	RC-063	19
Environmental Engineer IV	13754	RC-063	22
Environmental Protection Engineer I	13791	RC-063	15
Environmental Protection Engineer II	13792	RC-063	17
Environmental Protection Engineer III	13793	RC-063	19
Environmental Protection Engineer IV	13794	RC-063	22
Environmental Protection Geologist I	13801	RC-063	14
Environmental Protection Geologist II	13802	RC-063	16
Environmental Protection Geologist III	13803	RC-063	18
Geographic Information Specialist I	17271	RC-063	19
Geographic Information Specialist II	17272	RC-063	23
Geographic Information Trainee	17276	RC-063	15

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Graduate Pharmacist	17345	RC-063	20
Hearing and Speech Advanced Specialist	18227	RC-063	22
Hearing and Speech Associate	18231	RC-063	18
Hearing and Speech Specialist	18233	RC-063	20
Information Services Intern	21160	RC-063	15
Information Services Specialist I	21161	RC-063	17
Information Services Specialist II	21162	RC-063	19
Information Systems Analyst I	21165	RC-063	21
Information Systems Analyst II	21166	RC-063	23
Information Systems Analyst III	21167	RC-063	25
Laboratory Research Scientist	23025	RC-063	23
Landscape Architect	23145	RC-063	22
Landscape Planner	23150	RC-063	19
Librarian I	23401	RC-063	16
Management Systems Specialist	25583	RC-063	21
Mechanical Engineer I	26201	RC-063	15
Mechanical Engineer II	26202	RC-063	17
Mechanical Engineer III	26203	RC-063	19
Nutritionist	29820	RC-063	18
Occupational Therapist	29900	RC-063	17
Occupational Therapist Program Coordinator	29908	RC-063	19
Optometrist	30300	RC-063	14
Pharmacy Services Coordinator	32010	RC-063	25
Physical Therapist	32145	RC-063	17
Physical Therapist Program Coordinator	32153	RC-063	19
Podiatrist	32960	RC-063	14
Project Designer	34725	RC-063	19
Psychologist I	35611	RC-063	17
Psychologist II	35612	RC-063	20
Psychologist III	35613	RC-063	22
Psychologist Associate	35626	RC-063	15
Public Health Educator	36430	RC-063	19
Rehabilitation/Mobility Instructor	38163	RC-063	19
Rehabilitation/Mobility Instructor Trainee	38167	RC-063	15
School Psychologist	39200	RC-063	18
Social Worker II	41412	RC-063	18
Social Worker III	41413	RC-063	19
Social Worker IV	41414	RC-063	21
Staff Pharmacist	41787	RC-063	24

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Veterinarian I	47901	RC-063	18
Veterinarian II	47902	RC-063	20
Veterinarian III	47903	RC-063	21
Vision/Hearing Consultant I	47941	RC-063	16
Vision/Hearing Consultant II	47942	RC-063	20
Vision/Hearing Consultant III	47943	RC-063	21

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Effective July 1, 2006
Bargaining Unit: RC-063

Pay Grade	Pay Plan Code	S T E P S										
		1c	1b	1a	1	2	3	4	5	6	7	8
14	B	2857	2931	3011	3090	3208	3333	3478	3606	3743	3960	4079
14	Q	2975	3054	3136	3220	3345	3480	3632	3768	3912	4140	4264
14	S	3033	3113	3195	3282	3411	3544	3698	3834	3979	4205	4331
15	B	2967	3046	3128	3213	3354	3493	3630	3778	3918	4153	4279
15	Q	3091	3173	3260	3351	3500	3646	3792	3950	4095	4340	4470
15	S	3151	3232	3323	3415	3565	3709	3860	4016	4160	4407	4538
16	B	3099	3183	3269	3363	3514	3669	3822	3982	4141	4385	4517
16	Q	3228	3318	3413	3511	3669	3835	3995	4159	4327	4584	4722
16	S	3292	3383	3477	3577	3736	3903	4064	4227	4395	4648	4790
17	B	3237	3328	3424	3524	3686	3856	4020	4182	4352	4611	4749
17	Q	3377	3474	3575	3677	3853	4030	4199	4370	4548	4819	4965
17	S	3440	3539	3640	3744	3921	4099	4268	4438	4614	4888	5035
18	B	3402	3500	3601	3708	3887	4069	4253	4427	4604	4879	5026
18	Q	3551	3653	3762	3875	4066	4252	4447	4629	4812	5100	5252
18	S	3615	3717	3830	3940	4131	4320	4512	4695	4881	5165	5321
19	B	3580	3684	3793	3909	4108	4302	4502	4691	4886	5183	5338
19	Q	3739	3850	3966	4084	4293	4493	4706	4902	5108	5416	5578
19	S	3806	3919	4035	4152	4361	4562	4772	4970	5176	5483	5647
20	B	3781	3895	4011	4130	4339	4540	4756	4963	5168	5482	5646
20	Q	3953	4071	4191	4316	4534	4747	4971	5185	5401	5731	5903
20	S	4018	4138	4258	4384	4600	4812	5038	5252	5467	5795	5971
21	B	3991	4112	4235	4360	4585	4806	5031	5260	5479	5821	5996
21	Q	4172	4298	4424	4557	4793	5021	5258	5497	5727	6083	6267
21	S	4239	4364	4491	4626	4857	5089	5326	5564	5792	6150	6335

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

22	B	4218	4346	4477	4610	4850	5087	5328	5574	5806	6167	6352
22	Q	4409	4542	4678	4817	5069	5319	5567	5825	6069	6445	6639
22	S	4476	4608	4746	4886	5134	5385	5632	5892	6138	6514	6707
23	B	4477	4610	4748	4889	5149	5413	5670	5932	6189	6578	6775
23	Q	4678	4817	4962	5113	5383	5659	5925	6199	6468	6873	7079
23	S	4746	4886	5031	5179	5449	5725	5992	6265	6534	6940	7149
24	B	4763	4906	5052	5204	5481	5768	6045	6324	6610	7024	7235
24	Q	4977	5126	5281	5441	5730	6028	6318	6608	6907	7342	7562
24	S	5045	5193	5348	5507	5794	6093	6384	6676	6975	7408	7629
25	B	5077	5229	5386	5548	5850	6159	6466	6774	7081	7537	7763
25	Q	5305	5464	5627	5795	6115	6435	6758	7080	7402	7875	8112
25	S	5375	5530	5697	5864	6182	6501	6824	7146	7466	7943	8181
26	B	5365	5526	5693	5920	6244	6574	6908	7230	7555	8043	8284
26	Q	5620	5789	5963	6204	6542	6887	7237	7574	7913	8426	8679
26	S	5674	5844	6020	6263	6604	6954	7306	7646	7990	8508	8763

Effective January 1, 2007
Bargaining Unit: RC-063

Pay Grade	Pay Plan Code	S T E P S										
		1c	1b	1a	1	2	3	4	5	6	7	8
14	B	2886	2960	3041	3121	3240	3366	3513	3642	3780	4000	4120
14	Q	3005	3085	3167	3252	3378	3515	3668	3806	3951	4181	4307
14	S	3063	3144	3227	3315	3445	3579	3735	3872	4019	4247	4374
15	B	2997	3076	3159	3245	3388	3528	3666	3816	3957	4195	4322
15	Q	3122	3205	3293	3385	3535	3682	3830	3990	4136	4383	4515
15	S	3183	3264	3356	3449	3601	3746	3899	4056	4202	4451	4583
16	B	3130	3215	3302	3397	3549	3706	3860	4022	4182	4429	4562
16	Q	3260	3351	3447	3546	3706	3873	4035	4201	4370	4630	4769

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NOTICE OF EMERGENCY AMENDMENTS

16	S	3325	3417	3512	3613	3773	3942	4105	4269	4439	4694	4838
17	B	3269	3361	3458	3559	3723	3895	4060	4224	4396	4657	4796
17	Q	3411	3509	3611	3714	3892	4070	4241	4414	4593	4867	5015
17	S	3474	3574	3676	3781	3960	4140	4311	4482	4660	4937	5085
18	B	3436	3535	3637	3745	3926	4110	4296	4471	4650	4928	5076
18	Q	3587	3690	3800	3914	4107	4295	4491	4675	4860	5151	5305
18	S	3651	3754	3868	3979	4172	4363	4557	4742	4930	5217	5374
19	B	3616	3721	3831	3948	4149	4345	4547	4738	4935	5235	5391
19	Q	3776	3889	4006	4125	4336	4538	4753	4951	5159	5470	5634
19	S	3844	3958	4075	4194	4405	4608	4820	5020	5228	5538	5703
20	B	3819	3934	4051	4171	4382	4585	4804	5013	5220	5537	5702
20	Q	3993	4112	4233	4359	4579	4794	5021	5237	5455	5788	5962
20	S	4058	4179	4301	4428	4646	4860	5088	5305	5522	5853	6031
21	B	4031	4153	4277	4404	4631	4854	5081	5313	5534	5879	6056
21	Q	4214	4341	4468	4603	4841	5071	5311	5552	5784	6144	6330
21	S	4281	4408	4536	4672	4906	5140	5379	5620	5850	6212	6398
22	B	4260	4389	4522	4656	4899	5138	5381	5630	5864	6229	6416
22	Q	4453	4587	4725	4865	5120	5372	5623	5883	6130	6509	6705
22	S	4521	4654	4793	4935	5185	5439	5688	5951	6199	6579	6774
23	B	4522	4656	4795	4938	5200	5467	5727	5991	6251	6644	6843
23	Q	4725	4865	5012	5164	5437	5716	5984	6261	6533	6942	7150
23	S	4793	4935	5081	5231	5503	5782	6052	6328	6599	7009	7220
24	B	4811	4955	5103	5256	5536	5826	6105	6387	6676	7094	7307
24	Q	5027	5177	5334	5495	5787	6088	6381	6674	6976	7415	7638
24	S	5095	5245	5401	5562	5852	6154	6448	6743	7045	7482	7705
25	B	5128	5281	5440	5603	5909	6221	6531	6842	7152	7612	7841
25	Q	5358	5519	5683	5853	6176	6499	6826	7151	7476	7954	8193
25	S	5429	5585	5754	5923	6244	6566	6892	7217	7541	8022	8263

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26	B	5419	5581	5750	5979	6306	6640	6977	7302	7631	8123	8367
26	Q	5676	5847	6023	6266	6607	6956	7309	7650	7992	8510	8766
26	S	5731	5902	6080	6326	6670	7024	7379	7722	8070	8593	8851

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

**Section 310.APPENDIX B Schedule of Salary Grade Pay Grades – Monthly Rates of Pay
EMERGENCY**

<u>Title</u>	<u>Title Code</u>	<u>Pay Grade</u>
<u>Account Technician Trainee</u>	<u>00118</u>	<u>7</u>
<u>Animal and Animal Products Investigator Trainee</u>	<u>01075</u>	<u>12</u>
<u>Appraisal Specialist Trainee</u>	<u>01255</u>	<u>12</u>
<u>Arson Investigations Trainee</u>	<u>01485</u>	<u>14</u>
<u>Commerce Commission Police Officer Trainee</u>	<u>08455</u>	<u>13</u>
<u>Data Processing Supervisor I</u>	<u>11435</u>	<u>11</u>
<u>Economic Development Representative Trainee</u>	<u>12939</u>	<u>13</u>
<u>Educational Media Program Specialist</u>	<u>12980</u>	<u>17</u>
<u>Equine Investigator</u>	<u>13840</u>	<u>12</u>
<u>Fingerprint Technician Trainee</u>	<u>15209</u>	<u>8</u>
<u>Fire Certification Specialist</u>	<u>15285</u>	<u>17</u>
<u>Fire Protection Specialist I</u>	<u>15351</u>	<u>16</u>
<u>Governmental Career Trainee</u>	<u>17325</u>	<u>12</u>
<u>Historical Research Specialist</u>	<u>19008</u>	<u>20</u>
<u>Human Resources Assistant</u>	<u>19690</u>	<u>8</u>
<u>Human Resources Associate</u>	<u>19691</u>	<u>11</u>
<u>Inhalation Therapy Supervisor</u>	<u>21260</u>	<u>10</u>
<u>Insurance Company Claims Examiner I</u>	<u>21601</u>	<u>17</u>
<u>Internal Auditor Trainee</u>	<u>21726</u>	<u>12</u>
<u>Liability Claims Adjuster Trainee</u>	<u>23375</u>	<u>12</u>
<u>Management Operations Analyst Trainee</u>	<u>25545</u>	<u>14</u>
<u>Mental Health Administrator Trainee</u>	<u>26817</u>	<u>15</u>
<u>Mine Rescue Station Assistant</u>	<u>28150</u>	<u>10</u>
<u>Office Administrator I</u>	<u>29991</u>	<u>7</u>
<u>Office Administrator II</u>	<u>29992</u>	<u>9</u>
<u>Office Administrator III</u>	<u>29993</u>	<u>11</u>
<u>Pension and Death Benefits Technician I</u>	<u>30961</u>	<u>13</u>
<u>Physician Assistant</u>	<u>32210</u>	<u>22</u>
<u>Police Officer Trainee</u>	<u>32985</u>	<u>9</u>
<u>Polygraph Examiner Trainee</u>	<u>33005</u>	<u>14</u>
<u>Products and Standards Inspector Trainee</u>	<u>34605</u>	<u>12</u>
<u>Psychology Intern</u>	<u>35660</u>	<u>5</u>
<u>Registered Nurse - Advanced Practice</u>	<u>38135</u>	<u>22</u>
<u>Research Fellow, Option B</u>	<u>38211</u>	<u>18</u>
<u>Seed Analyst Trainee</u>	<u>39953</u>	<u>10</u>

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Social Worker Intern	41430	5
Telecommunications Systems Technician Trainee	45314	8

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Pay Grade	Pay Plan Code	S T E P S										
		1c	1b	1a	1	2	3	4	5	6	7	8
1	7	1730	1772	1816	1861	1908	1952	1999	2053	2099	2182	2226
1	8	1772	1816	1861	1907	1956	2001	2050	2105	2153	2238	2283
1	9	1825	1870	1915	1960	2010	2055	2103	2159	2206	2291	2337
2	7	1773	1817	1862	1908	1952	1999	2055	2105	2155	2239	2284
2	8	1817	1862	1908	1956	2001	2050	2107	2159	2210	2297	2343
2	9	1871	1916	1961	2010	2055	2103	2161	2212	2264	2350	2397
3	7	1813	1857	1904	1952	1999	2056	2108	2159	2212	2310	2356
3	8	1857	1904	1952	2001	2050	2108	2162	2214	2269	2370	2418
3	9	1912	1957	2005	2055	2103	2162	2215	2268	2322	2423	2472
4	7	1855	1902	1950	1999	2056	2112	2163	2227	2278	2380	2427
4	8	1902	1950	1999	2050	2108	2166	2218	2284	2337	2442	2491
4	9	1955	2003	2053	2103	2162	2219	2272	2338	2390	2495	2545
5	7	1908	1956	2005	2056	2114	2175	2234	2290	2348	2452	2498
5	8	1956	2005	2056	2108	2168	2231	2291	2349	2410	2514	2564
5	9	2010	2059	2109	2162	2221	2284	2345	2403	2463	2567	2618
6	7	1961	2011	2062	2114	2176	2236	2303	2364	2430	2538	2589
6	8	2011	2062	2114	2168	2232	2294	2362	2425	2494	2501	2656
6	9	2064	2116	2168	2221	2285	2347	2416	2479	2548	2658	2711
7	7	2018	2069	2122	2176	2239	2308	2375	2443	2514	2631	2684
7	8	2069	2122	2176	2232	2297	2368	2438	2506	2580	2701	2755
7	9	2123	2175	2230	2285	2350	2421	2491	2560	2633	2754	2809
8	7	2076	2129	2183	2239	2313	2385	2464	2532	2608	2731	2786
8	8	2129	2183	2239	2297	2373	2447	2528	2599	2677	2804	2860
8	9	2182	2237	2292	2350	2426	2500	2582	2653	2731	2857	2914

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NOTICE OF EMERGENCY AMENDMENTS

9	7	2143	2199	2255	2313	2388	2469	2547	2630	2709	2836	2893
9	8	2199	2255	2313	2373	2450	2533	2614	2700	2781	2913	2971
9	9	2252	2309	2367	2426	2503	2588	2668	2753	2835	2968	3027
10	7	2214	2271	2331	2391	2481	2559	2645	2728	2814	2957	3016
10	8	2271	2331	2391	2453	2547	2627	2714	2801	2889	3041	3101
10	9	2324	2384	2445	2506	2600	2680	2768	2854	2945	3099	3162
11	7	2298	2358	2419	2482	2572	2656	2751	2842	2930	3085	3146
11	8	2358	2419	2482	2548	2640	2727	2824	2919	3012	3174	3238
11	9	2412	2473	2536	2601	2694	2780	2878	2974	3070	3231	3296
12	7	2392	2454	2519	2585	2681	2771	2874	2968	3077	3243	3307
12	8	2454	2519	2585	2654	2752	2844	2954	3053	3166	3337	3404
12	9	2508	2572	2638	2707	2806	2898	3010	3111	3224	3397	3464
13	7	2482	2548	2616	2684	2783	2889	2998	3108	3223	3403	3470
13	8	2548	2616	2684	2755	2857	2969	3085	3197	3316	3505	3574
13	9	2601	2669	2738	2809	2912	3026	3143	3255	3376	3565	3637
14	7	2588	2656	2727	2800	2907	3020	3152	3267	3391	3588	3660
14	8	2656	2727	2800	2875	2988	3108	3243	3364	3493	3696	3770
14	9	2709	2780	2853	2930	3045	3165	3301	3423	3552	3755	3830
15	7	2688	2760	2834	2911	3038	3164	3288	3423	3550	3763	3838
15	8	2760	2834	2911	2992	3125	3255	3386	3527	3656	3875	3953
15	9	2813	2887	2966	3049	3183	3312	3447	3585	3715	3935	4014
16	7	2808	2883	2963	3047	3184	3324	3463	3607	3751	3973	4052
16	8	2883	2963	3047	3136	3276	3424	3568	3714	3864	4092	4175
16	9	2939	3020	3105	3193	3335	3484	3628	3774	3924	4151	4234
17	7	2932	3015	3102	3192	3340	3494	3642	3789	3943	4178	4261
17	8	3015	3102	3192	3284	3440	3599	3750	3903	4061	4304	4390
17	9	3072	3160	3250	3343	3501	3660	3811	3963	4120	4364	4451
18	7	3082	3171	3262	3359	3522	3686	3853	4011	4172	4421	4509
18	8	3171	3262	3359	3460	3630	3797	3970	4133	4297	4553	4645

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18	9	3228	3320	3420	3518	3689	3857	4029	4192	4358	4612	4705
19	7	3244	3338	3437	3541	3722	3897	4079	4249	4427	4695	4788
19	8	3338	3437	3541	3647	3833	4012	4202	4377	4561	4836	4933
19	9	3398	3499	3602	3707	3894	4073	4261	4438	4621	4895	4993
20	7	3425	3529	3634	3742	3931	4114	4309	4496	4681	4967	5067
20	8	3529	3634	3742	3854	4049	4238	4439	4630	4822	5117	5219
20	9	3587	3694	3802	3914	4108	4297	4498	4690	4882	5175	5279
21	7	3616	3725	3837	3950	4153	4354	4558	4766	4964	5273	5378
21	8	3725	3837	3950	4068	4279	4484	4695	4908	5113	5432	5540
21	9	3785	3897	4010	4130	4338	4544	4755	4968	5172	5491	5601
22	7	3822	3937	4056	4177	4394	4609	4827	5050	5261	5587	5698
22	8	3937	4056	4177	4302	4526	4748	4971	5201	5419	5755	5871
22	9	3997	4114	4237	4363	4584	4808	5029	5260	5480	5815	5931
23	7	4056	4177	4302	4430	4665	4904	5137	5374	5608	5959	6079
23	8	4177	4302	4430	4565	4806	5052	5290	5534	5775	6137	6260
23	9	4237	4363	4491	4624	4865	5111	5350	5594	5835	6197	6321
24	7	4315	4444	4577	4715	4966	5225	5476	5729	5988	6363	6490
24	8	4444	4577	4715	4858	5116	5381	5641	5901	6167	6555	6686
24	9	4504	4637	4775	4918	5174	5440	5700	5961	6228	6614	6746
25	7	4599	4737	4879	5025	5301	5580	5858	6137	6416	6828	6964
25	8	4737	4879	5025	5175	5460	5746	6034	6322	6608	7032	7173
25	9	4798	4938	5086	5235	5520	5805	6093	6381	6667	7092	7233

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<u>Pay Grade</u>	<u>Pay Plan Code</u>	<u>STEPS</u>										
		<u>1c</u>	<u>1b</u>	<u>1a</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>1</u>	<u>7</u>	<u>1782</u>	<u>1825</u>	<u>1870</u>	<u>1917</u>	<u>1965</u>	<u>2011</u>	<u>2059</u>	<u>2115</u>	<u>2162</u>	<u>2247</u>	<u>2293</u>
<u>1</u>	<u>8</u>	<u>1825</u>	<u>1870</u>	<u>1917</u>	<u>1964</u>	<u>2015</u>	<u>2061</u>	<u>2112</u>	<u>2168</u>	<u>2218</u>	<u>2305</u>	<u>2351</u>
<u>1</u>	<u>9</u>	<u>1880</u>	<u>1926</u>	<u>1972</u>	<u>2019</u>	<u>2070</u>	<u>2117</u>	<u>2166</u>	<u>2224</u>	<u>2272</u>	<u>2360</u>	<u>2407</u>
<u>2</u>	<u>7</u>	<u>1826</u>	<u>1872</u>	<u>1918</u>	<u>1965</u>	<u>2011</u>	<u>2059</u>	<u>2117</u>	<u>2168</u>	<u>2220</u>	<u>2306</u>	<u>2353</u>

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<u>2</u>	<u>8</u>	<u>1872</u>	<u>1918</u>	<u>1965</u>	<u>2015</u>	<u>2061</u>	<u>2112</u>	<u>2170</u>	<u>2224</u>	<u>2276</u>	<u>2366</u>	<u>2413</u>
<u>2</u>	<u>9</u>	<u>1927</u>	<u>1973</u>	<u>2020</u>	<u>2070</u>	<u>2117</u>	<u>2166</u>	<u>2226</u>	<u>2278</u>	<u>2332</u>	<u>2421</u>	<u>2469</u>
<u>3</u>	<u>7</u>	<u>1867</u>	<u>1913</u>	<u>1961</u>	<u>2011</u>	<u>2059</u>	<u>2118</u>	<u>2171</u>	<u>2224</u>	<u>2278</u>	<u>2379</u>	<u>2427</u>
<u>3</u>	<u>8</u>	<u>1913</u>	<u>1961</u>	<u>2011</u>	<u>2061</u>	<u>2112</u>	<u>2171</u>	<u>2227</u>	<u>2280</u>	<u>2337</u>	<u>2441</u>	<u>2491</u>
<u>3</u>	<u>9</u>	<u>1969</u>	<u>2016</u>	<u>2065</u>	<u>2117</u>	<u>2166</u>	<u>2227</u>	<u>2281</u>	<u>2336</u>	<u>2392</u>	<u>2496</u>	<u>2546</u>
<u>4</u>	<u>7</u>	<u>1911</u>	<u>1959</u>	<u>2009</u>	<u>2059</u>	<u>2118</u>	<u>2175</u>	<u>2228</u>	<u>2294</u>	<u>2346</u>	<u>2451</u>	<u>2500</u>
<u>4</u>	<u>8</u>	<u>1959</u>	<u>2009</u>	<u>2059</u>	<u>2112</u>	<u>2171</u>	<u>2231</u>	<u>2285</u>	<u>2353</u>	<u>2407</u>	<u>2515</u>	<u>2566</u>
<u>4</u>	<u>9</u>	<u>2014</u>	<u>2063</u>	<u>2115</u>	<u>2166</u>	<u>2227</u>	<u>2286</u>	<u>2340</u>	<u>2408</u>	<u>2462</u>	<u>2570</u>	<u>2621</u>
<u>5</u>	<u>7</u>	<u>1965</u>	<u>2015</u>	<u>2065</u>	<u>2118</u>	<u>2177</u>	<u>2240</u>	<u>2301</u>	<u>2359</u>	<u>2418</u>	<u>2526</u>	<u>2573</u>
<u>5</u>	<u>8</u>	<u>2015</u>	<u>2065</u>	<u>2118</u>	<u>2171</u>	<u>2233</u>	<u>2298</u>	<u>2360</u>	<u>2419</u>	<u>2482</u>	<u>2589</u>	<u>2641</u>
<u>5</u>	<u>9</u>	<u>2070</u>	<u>2121</u>	<u>2172</u>	<u>2227</u>	<u>2288</u>	<u>2353</u>	<u>2415</u>	<u>2475</u>	<u>2537</u>	<u>2644</u>	<u>2697</u>
<u>6</u>	<u>7</u>	<u>2020</u>	<u>2071</u>	<u>2124</u>	<u>2177</u>	<u>2241</u>	<u>2303</u>	<u>2372</u>	<u>2435</u>	<u>2503</u>	<u>2614</u>	<u>2667</u>
<u>6</u>	<u>8</u>	<u>2071</u>	<u>2124</u>	<u>2177</u>	<u>2233</u>	<u>2299</u>	<u>2363</u>	<u>2433</u>	<u>2498</u>	<u>2569</u>	<u>2576</u>	<u>2736</u>
<u>6</u>	<u>9</u>	<u>2126</u>	<u>2179</u>	<u>2233</u>	<u>2288</u>	<u>2354</u>	<u>2417</u>	<u>2488</u>	<u>2553</u>	<u>2624</u>	<u>2738</u>	<u>2792</u>
<u>7</u>	<u>7</u>	<u>2079</u>	<u>2131</u>	<u>2186</u>	<u>2241</u>	<u>2306</u>	<u>2377</u>	<u>2446</u>	<u>2516</u>	<u>2589</u>	<u>2710</u>	<u>2765</u>
<u>7</u>	<u>8</u>	<u>2131</u>	<u>2186</u>	<u>2241</u>	<u>2299</u>	<u>2366</u>	<u>2439</u>	<u>2511</u>	<u>2581</u>	<u>2657</u>	<u>2782</u>	<u>2838</u>
<u>7</u>	<u>9</u>	<u>2187</u>	<u>2240</u>	<u>2297</u>	<u>2354</u>	<u>2421</u>	<u>2494</u>	<u>2566</u>	<u>2637</u>	<u>2712</u>	<u>2837</u>	<u>2893</u>
<u>8</u>	<u>7</u>	<u>2138</u>	<u>2193</u>	<u>2248</u>	<u>2306</u>	<u>2382</u>	<u>2457</u>	<u>2538</u>	<u>2608</u>	<u>2686</u>	<u>2813</u>	<u>2870</u>
<u>8</u>	<u>8</u>	<u>2193</u>	<u>2248</u>	<u>2306</u>	<u>2366</u>	<u>2444</u>	<u>2520</u>	<u>2604</u>	<u>2677</u>	<u>2757</u>	<u>2888</u>	<u>2946</u>
<u>8</u>	<u>9</u>	<u>2247</u>	<u>2304</u>	<u>2361</u>	<u>2421</u>	<u>2499</u>	<u>2575</u>	<u>2659</u>	<u>2733</u>	<u>2813</u>	<u>2943</u>	<u>3001</u>
<u>9</u>	<u>7</u>	<u>2207</u>	<u>2265</u>	<u>2323</u>	<u>2382</u>	<u>2460</u>	<u>2543</u>	<u>2623</u>	<u>2709</u>	<u>2790</u>	<u>2921</u>	<u>2980</u>
<u>9</u>	<u>8</u>	<u>2265</u>	<u>2323</u>	<u>2382</u>	<u>2444</u>	<u>2524</u>	<u>2609</u>	<u>2692</u>	<u>2781</u>	<u>2864</u>	<u>3000</u>	<u>3060</u>
<u>9</u>	<u>9</u>	<u>2320</u>	<u>2378</u>	<u>2438</u>	<u>2499</u>	<u>2578</u>	<u>2666</u>	<u>2748</u>	<u>2836</u>	<u>2920</u>	<u>3057</u>	<u>3118</u>
<u>10</u>	<u>7</u>	<u>2280</u>	<u>2339</u>	<u>2401</u>	<u>2463</u>	<u>2555</u>	<u>2636</u>	<u>2724</u>	<u>2810</u>	<u>2898</u>	<u>3046</u>	<u>3106</u>
<u>10</u>	<u>8</u>	<u>2339</u>	<u>2401</u>	<u>2463</u>	<u>2527</u>	<u>2623</u>	<u>2706</u>	<u>2795</u>	<u>2885</u>	<u>2976</u>	<u>3132</u>	<u>3194</u>
<u>10</u>	<u>9</u>	<u>2394</u>	<u>2456</u>	<u>2518</u>	<u>2581</u>	<u>2678</u>	<u>2760</u>	<u>2851</u>	<u>2940</u>	<u>3033</u>	<u>3192</u>	<u>3257</u>
<u>11</u>	<u>7</u>	<u>2367</u>	<u>2429</u>	<u>2492</u>	<u>2556</u>	<u>2649</u>	<u>2736</u>	<u>2834</u>	<u>2927</u>	<u>3018</u>	<u>3178</u>	<u>3240</u>
<u>11</u>	<u>8</u>	<u>2429</u>	<u>2492</u>	<u>2556</u>	<u>2624</u>	<u>2719</u>	<u>2809</u>	<u>2909</u>	<u>3007</u>	<u>3102</u>	<u>3269</u>	<u>3335</u>
<u>11</u>	<u>9</u>	<u>2484</u>	<u>2547</u>	<u>2612</u>	<u>2679</u>	<u>2775</u>	<u>2863</u>	<u>2964</u>	<u>3063</u>	<u>3162</u>	<u>3328</u>	<u>3395</u>
<u>12</u>	<u>7</u>	<u>2464</u>	<u>2528</u>	<u>2595</u>	<u>2663</u>	<u>2761</u>	<u>2854</u>	<u>2960</u>	<u>3057</u>	<u>3169</u>	<u>3340</u>	<u>3406</u>

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

<u>12</u>	<u>8</u>	<u>2528</u>	<u>2595</u>	<u>2663</u>	<u>2734</u>	<u>2835</u>	<u>2929</u>	<u>3043</u>	<u>3145</u>	<u>3261</u>	<u>3437</u>	<u>3506</u>
<u>12</u>	<u>9</u>	<u>2583</u>	<u>2649</u>	<u>2717</u>	<u>2788</u>	<u>2890</u>	<u>2985</u>	<u>3100</u>	<u>3204</u>	<u>3321</u>	<u>3499</u>	<u>3568</u>
<u>13</u>	<u>7</u>	<u>2556</u>	<u>2624</u>	<u>2694</u>	<u>2765</u>	<u>2866</u>	<u>2976</u>	<u>3088</u>	<u>3201</u>	<u>3320</u>	<u>3505</u>	<u>3574</u>
<u>13</u>	<u>8</u>	<u>2624</u>	<u>2694</u>	<u>2765</u>	<u>2838</u>	<u>2943</u>	<u>3058</u>	<u>3178</u>	<u>3293</u>	<u>3415</u>	<u>3610</u>	<u>3681</u>
<u>13</u>	<u>9</u>	<u>2679</u>	<u>2749</u>	<u>2820</u>	<u>2893</u>	<u>2999</u>	<u>3117</u>	<u>3237</u>	<u>3353</u>	<u>3477</u>	<u>3672</u>	<u>3746</u>
<u>14</u>	<u>7</u>	<u>2666</u>	<u>2736</u>	<u>2809</u>	<u>2884</u>	<u>2994</u>	<u>3111</u>	<u>3247</u>	<u>3365</u>	<u>3493</u>	<u>3696</u>	<u>3770</u>
<u>14</u>	<u>8</u>	<u>2736</u>	<u>2809</u>	<u>2884</u>	<u>2961</u>	<u>3078</u>	<u>3201</u>	<u>3340</u>	<u>3465</u>	<u>3598</u>	<u>3807</u>	<u>3883</u>
<u>14</u>	<u>9</u>	<u>2790</u>	<u>2863</u>	<u>2939</u>	<u>3018</u>	<u>3136</u>	<u>3260</u>	<u>3400</u>	<u>3526</u>	<u>3659</u>	<u>3868</u>	<u>3945</u>
<u>15</u>	<u>7</u>	<u>2769</u>	<u>2843</u>	<u>2919</u>	<u>2998</u>	<u>3129</u>	<u>3259</u>	<u>3387</u>	<u>3526</u>	<u>3657</u>	<u>3876</u>	<u>3953</u>
<u>15</u>	<u>8</u>	<u>2843</u>	<u>2919</u>	<u>2998</u>	<u>3082</u>	<u>3219</u>	<u>3353</u>	<u>3488</u>	<u>3633</u>	<u>3766</u>	<u>3991</u>	<u>4072</u>
<u>15</u>	<u>9</u>	<u>2897</u>	<u>2974</u>	<u>3055</u>	<u>3140</u>	<u>3278</u>	<u>3411</u>	<u>3550</u>	<u>3693</u>	<u>3826</u>	<u>4053</u>	<u>4134</u>
<u>16</u>	<u>7</u>	<u>2892</u>	<u>2969</u>	<u>3052</u>	<u>3138</u>	<u>3280</u>	<u>3424</u>	<u>3567</u>	<u>3715</u>	<u>3864</u>	<u>4092</u>	<u>4174</u>
<u>16</u>	<u>8</u>	<u>2969</u>	<u>3052</u>	<u>3138</u>	<u>3230</u>	<u>3374</u>	<u>3527</u>	<u>3675</u>	<u>3825</u>	<u>3980</u>	<u>4215</u>	<u>4300</u>
<u>16</u>	<u>9</u>	<u>3027</u>	<u>3111</u>	<u>3198</u>	<u>3289</u>	<u>3435</u>	<u>3589</u>	<u>3737</u>	<u>3887</u>	<u>4042</u>	<u>4276</u>	<u>4361</u>
<u>17</u>	<u>7</u>	<u>3020</u>	<u>3105</u>	<u>3195</u>	<u>3288</u>	<u>3440</u>	<u>3599</u>	<u>3751</u>	<u>3903</u>	<u>4061</u>	<u>4303</u>	<u>4389</u>
<u>17</u>	<u>8</u>	<u>3105</u>	<u>3195</u>	<u>3288</u>	<u>3383</u>	<u>3543</u>	<u>3707</u>	<u>3863</u>	<u>4020</u>	<u>4183</u>	<u>4433</u>	<u>4522</u>
<u>17</u>	<u>9</u>	<u>3164</u>	<u>3255</u>	<u>3348</u>	<u>3443</u>	<u>3606</u>	<u>3770</u>	<u>3925</u>	<u>4082</u>	<u>4244</u>	<u>4495</u>	<u>4585</u>
<u>18</u>	<u>7</u>	<u>3174</u>	<u>3266</u>	<u>3360</u>	<u>3460</u>	<u>3628</u>	<u>3797</u>	<u>3969</u>	<u>4131</u>	<u>4297</u>	<u>4554</u>	<u>4644</u>
<u>18</u>	<u>8</u>	<u>3266</u>	<u>3360</u>	<u>3460</u>	<u>3564</u>	<u>3739</u>	<u>3911</u>	<u>4089</u>	<u>4257</u>	<u>4426</u>	<u>4690</u>	<u>4784</u>
<u>18</u>	<u>9</u>	<u>3325</u>	<u>3420</u>	<u>3523</u>	<u>3624</u>	<u>3800</u>	<u>3973</u>	<u>4150</u>	<u>4318</u>	<u>4489</u>	<u>4750</u>	<u>4846</u>
<u>19</u>	<u>7</u>	<u>3341</u>	<u>3438</u>	<u>3540</u>	<u>3647</u>	<u>3834</u>	<u>4014</u>	<u>4201</u>	<u>4376</u>	<u>4560</u>	<u>4836</u>	<u>4932</u>
<u>19</u>	<u>8</u>	<u>3438</u>	<u>3540</u>	<u>3647</u>	<u>3756</u>	<u>3948</u>	<u>4132</u>	<u>4328</u>	<u>4508</u>	<u>4698</u>	<u>4981</u>	<u>5081</u>
<u>19</u>	<u>9</u>	<u>3500</u>	<u>3604</u>	<u>3710</u>	<u>3818</u>	<u>4011</u>	<u>4195</u>	<u>4389</u>	<u>4571</u>	<u>4760</u>	<u>5042</u>	<u>5143</u>
<u>20</u>	<u>7</u>	<u>3528</u>	<u>3635</u>	<u>3743</u>	<u>3854</u>	<u>4049</u>	<u>4237</u>	<u>4438</u>	<u>4631</u>	<u>4821</u>	<u>5116</u>	<u>5219</u>
<u>20</u>	<u>8</u>	<u>3635</u>	<u>3743</u>	<u>3854</u>	<u>3970</u>	<u>4170</u>	<u>4365</u>	<u>4572</u>	<u>4769</u>	<u>4967</u>	<u>5271</u>	<u>5376</u>
<u>20</u>	<u>9</u>	<u>3695</u>	<u>3805</u>	<u>3916</u>	<u>4031</u>	<u>4231</u>	<u>4426</u>	<u>4633</u>	<u>4831</u>	<u>5028</u>	<u>5330</u>	<u>5437</u>
<u>21</u>	<u>7</u>	<u>3724</u>	<u>3837</u>	<u>3952</u>	<u>4069</u>	<u>4278</u>	<u>4485</u>	<u>4695</u>	<u>4909</u>	<u>5113</u>	<u>5431</u>	<u>5539</u>
<u>21</u>	<u>8</u>	<u>3837</u>	<u>3952</u>	<u>4069</u>	<u>4190</u>	<u>4407</u>	<u>4619</u>	<u>4836</u>	<u>5055</u>	<u>5266</u>	<u>5595</u>	<u>5706</u>
<u>21</u>	<u>9</u>	<u>3899</u>	<u>4014</u>	<u>4130</u>	<u>4254</u>	<u>4468</u>	<u>4680</u>	<u>4898</u>	<u>5117</u>	<u>5327</u>	<u>5656</u>	<u>5769</u>
<u>22</u>	<u>7</u>	<u>3937</u>	<u>4055</u>	<u>4178</u>	<u>4302</u>	<u>4526</u>	<u>4747</u>	<u>4972</u>	<u>5202</u>	<u>5419</u>	<u>5755</u>	<u>5869</u>

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

<u>22</u>	<u>8</u>	<u>4055</u>	<u>4178</u>	<u>4302</u>	<u>4431</u>	<u>4662</u>	<u>4890</u>	<u>5120</u>	<u>5357</u>	<u>5582</u>	<u>5928</u>	<u>6047</u>
<u>22</u>	<u>9</u>	<u>4117</u>	<u>4237</u>	<u>4364</u>	<u>4494</u>	<u>4722</u>	<u>4952</u>	<u>5180</u>	<u>5418</u>	<u>5644</u>	<u>5989</u>	<u>6109</u>
<u>23</u>	<u>7</u>	<u>4178</u>	<u>4302</u>	<u>4431</u>	<u>4563</u>	<u>4805</u>	<u>5051</u>	<u>5291</u>	<u>5535</u>	<u>5776</u>	<u>6138</u>	<u>6261</u>
<u>23</u>	<u>8</u>	<u>4302</u>	<u>4431</u>	<u>4563</u>	<u>4702</u>	<u>4950</u>	<u>5204</u>	<u>5449</u>	<u>5700</u>	<u>5948</u>	<u>6321</u>	<u>6448</u>
<u>23</u>	<u>9</u>	<u>4364</u>	<u>4494</u>	<u>4626</u>	<u>4763</u>	<u>5011</u>	<u>5264</u>	<u>5511</u>	<u>5762</u>	<u>6010</u>	<u>6383</u>	<u>6511</u>
<u>24</u>	<u>7</u>	<u>4444</u>	<u>4577</u>	<u>4714</u>	<u>4856</u>	<u>5115</u>	<u>5382</u>	<u>5640</u>	<u>5901</u>	<u>6168</u>	<u>6554</u>	<u>6685</u>
<u>24</u>	<u>8</u>	<u>4577</u>	<u>4714</u>	<u>4856</u>	<u>5004</u>	<u>5269</u>	<u>5542</u>	<u>5810</u>	<u>6078</u>	<u>6352</u>	<u>6752</u>	<u>6887</u>
<u>24</u>	<u>9</u>	<u>4639</u>	<u>4776</u>	<u>4918</u>	<u>5066</u>	<u>5329</u>	<u>5603</u>	<u>5871</u>	<u>6140</u>	<u>6415</u>	<u>6812</u>	<u>6948</u>
<u>25</u>	<u>7</u>	<u>4737</u>	<u>4879</u>	<u>5025</u>	<u>5176</u>	<u>5460</u>	<u>5747</u>	<u>6034</u>	<u>6321</u>	<u>6608</u>	<u>7033</u>	<u>7173</u>
<u>25</u>	<u>8</u>	<u>4879</u>	<u>5025</u>	<u>5176</u>	<u>5330</u>	<u>5624</u>	<u>5918</u>	<u>6215</u>	<u>6512</u>	<u>6806</u>	<u>7243</u>	<u>7388</u>
<u>25</u>	<u>9</u>	<u>4942</u>	<u>5086</u>	<u>5239</u>	<u>5392</u>	<u>5686</u>	<u>5979</u>	<u>6276</u>	<u>6572</u>	<u>6867</u>	<u>7305</u>	<u>7450</u>

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX C Medical Administrator Rates**EMERGENCY**

Effective December 2, 2005, the minimum, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in creditable service date.

Effective December 2, 2005

<u>Title</u>	<u>December 2, 2005</u>			<u>January 1, 2007</u>		
	<u>Minimum Salary</u>	<u>Midpoint Salary</u>	<u>Maximum Salary</u>	<u>Minimum Salary</u>	<u>Midpoint Salary</u>	<u>Maximum Salary</u>
Medical Administrator I, Option C	8414	10237	12060	<u>8414</u>	<u>11262</u>	<u>14110</u>
Medical Administrator I, Option D	9396	11271	13145	<u>9396</u>	<u>12388</u>	<u>15380</u>
Medical Administrator II, Option C	9093	10950	12806	<u>9093</u>	<u>12038</u>	<u>14983</u>
Medical Administrator II, Option D	10441	12380	14318	<u>10441</u>	<u>13597</u>	<u>16752</u>
Medical Administrator III	10812	12936	15059	<u>10812</u>	<u>14216</u>	<u>17619</u>
Medical Administrator IV	10987	13111	15234	<u>10987</u>	<u>14406</u>	<u>17824</u>
Medical Administrator V	11163	13289	15415	<u>11163</u>	<u>14600</u>	<u>18036</u>

The rates of pay for physicians occupying or appointed to a position in the Medical Administrator classes shall be as listed in the above schedule. All provisions of Subpart C of the Pay Plan, Merit Compensation System will apply to the Medical Administrator positions.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX D Merit Compensation System Salary Schedule
EMERGENCY

Effective December 2, 2005, the minimum, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in creditable service date.

Effective December 2, 2005

Salary Range	<u>December 2, 2005</u>			<u>January 1, 2007</u>		
	<u>Minimum Salary</u>	<u>Midpoint Salary</u>	<u>Maximum Salary</u>	<u>Minimum Salary</u>	<u>Midpoint Salary</u>	<u>Maximum Salary</u>
MC 01	2228	3021	3813	<u>2228</u>	<u>3345</u>	<u>4461</u>
MC 02	2324	3175	4026	<u>2324</u>	<u>3517</u>	<u>4710</u>
MC 03	2437	3360	4282	<u>2437</u>	<u>3724</u>	<u>5010</u>
MC 04	2547	3517	4486	<u>2547</u>	<u>3898</u>	<u>5249</u>
MC 05	2674	3725	4775	<u>2674</u>	<u>4131</u>	<u>5587</u>
MC 06	2810	3910	5009	<u>2810</u>	<u>4336</u>	<u>5861</u>
MC 07	2957	4144	5330	<u>2957</u>	<u>4597</u>	<u>6236</u>
MC 08	3116	4396	5676	<u>3116</u>	<u>4879</u>	<u>6641</u>
MC 09	3294	4642	5989	<u>3294</u>	<u>5151</u>	<u>7007</u>
MC 10	3480	4942	6404	<u>3480</u>	<u>5487</u>	<u>7493</u>
MC 11	3675	5248	6820	<u>3675</u>	<u>5827</u>	<u>7979</u>
MC 12	3903	5600	7296	<u>3903</u>	<u>6220</u>	<u>8536</u>
MC 13	4168	5985	7802	<u>4168</u>	<u>6648</u>	<u>9128</u>
MC 14	4457	6426	8395	<u>4457</u>	<u>7140</u>	<u>9822</u>
MC 15	4784	6889	8994	<u>4784</u>	<u>7654</u>	<u>10523</u>
MC 16	5122	7401	9679	<u>5122</u>	<u>8223</u>	<u>11324</u>
MC 17	5527	7989	10450	<u>5527</u>	<u>8877</u>	<u>12227</u>
MC 18	5957	8336	10714	<u>5957</u>	<u>9246</u>	<u>12535</u>
MC 19	6434	8699	10963	<u>6434</u>	<u>9631</u>	<u>12827</u>

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

MC-20 13109 14615 16120 [13109](#) [14615](#) [16120](#) |

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310.APPENDIX G Broad-Band Pay Range Classes Salary Schedule
EMERGENCY

Effective December 2, 2005, the minimum, the base salary for each employee who has 12 months of State service, or upon completing 12 months of State service by or on December 1, 2006, receives a 4% adjustment increase without change in creditable service date.

Effective December 2, 2005

<u>Title</u>	<u>December 2, 2005</u>		<u>January 1, 2007</u>	
	<u>Minimum Salary</u>	<u>Maximum Salary</u>	<u>Minimum Salary</u>	<u>Maximum Salary</u>
Health Information Administrator	2674	5330	<u>2674</u>	<u>6236</u>
Human Resources Representative	2324	4486	<u>2324</u>	<u>5249</u>
Human Resources Specialist	2674	5330	<u>2674</u>	<u>6236</u>
Public Service Administrator	3116	6820	<u>3116</u>	<u>7979</u>
Residential Services Supervisor	2324	4486	<u>2324</u>	<u>5249</u>
Senior Public Service Administrator	4295	10093	<u>4295</u>	<u>10093</u>
Site Superintendent	2674	5330	<u>2674</u>	<u>6236</u>

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.12 Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: January 1, 2007
- 6) This emergency amendment is not expected to expire before the end of the 150-day period
- 7) Date Filed with the Index Department: December 29, 2006
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Based on a State Medicaid Director letter from the federal Centers for Medicare and Medicaid Services (CMMS) dated December 13, 2006, the letter states that the Department is required to implements procedures to assure that any entity, making or receiving Medicaid payments of \$5 million or more annually, establish written policies for all employees, contractors, or agents of the entity regarding the False Claims Act and other provisions enacted in section 6032 of the Deficit Reduction Act (P.L. 109-0171), which added section 1902(a)(68)(A) to the Social Security Act. Entities are defined as providers and governmental entities. Section 1902(a) deals with the requirements of State plans. The CMMS letter states that such procedures must be in place by January 1, 2007, unless legislation is needed.
- 10) Complete Description of the Subjects and Issues Involved: Based on a State Medicaid Director letter from the federal Centers for Medicare and Medicaid Services (CMMS) dated December 13, 2006, the letter states that the Department is required to implements procedures to assure that any entity, making or receiving Medicaid payments of \$5 million or more annually, establish written policies for all employees, contractors, or agents of the entity regarding the False Claims Act and other provisions enacted in section 6032 of the Deficit Reduction Act (P.L. 109-0171), which added section 1902(a)(68)(A) to the Social Security Act. Entities are defined as providers and governmental entities. Section 1902(a) deals with the requirements of State plans.

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- 11) Are there any other amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.13	Amendment	30 Ill. Reg. 14007; 8/25/06
140.15	Amendment	30 Ill. Reg. 14007; 8/25/06
140.18	Amendment	30 Ill. Reg. 14007; 8/25/06
140.24	Amendment	30 Ill. Reg. 14007; 8/25/06
140.25	Amendment	30 Ill. Reg. 14007; 8/25/06
140.28	Amendment	30 Ill. Reg. 14007; 8/25/06
140.30	Amendment	30 Ill. Reg. 14007; 8/25/06
140.33	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1001	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1002	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1003	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1004	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1005	Amendment	30 Ill. Reg. 14007; 8/25/06
140.469	Amendment	30 Ill. Reg. 17719; 11/13/06
140.526	Amendment	30 Ill. Reg. 17719; 11/13/06
140.530	Amendment	30 Ill. Reg. 17719; 11/13/06
140.860	Amendment	30 Ill. Reg. 17719; 11/13/06
140.994	New Section	30 Ill. Reg. 18860; 12/15/06
140.995	New Section	30 Ill. Reg. 18860; 12/15/06
140.996	New Section	30 Ill. Reg. 18860; 12/15/06
140.997	New Section	30 Ill. Reg. 18860; 12/15/06

- 12) Statement of Statewide Policy Objectives: These emergency amendments expand the State mandate affecting units of local government.

- 13) Information and questions regarding this amendment shall be directed to:

Tamara Tanzillo Hoffman
 Chief of Administration and Rules
 Illinois Department of Healthcare and Family Services
 201 South Grand Avenue East, 3rd Floor
 Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- EMERGENCY**
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination,

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	Suspension or Barring
140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)

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- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit (Repealed)
140.410	Physicians' Services
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140.412	Services Not Covered By Physicians
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140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
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140.421	Limitations on Dental Services
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140.425	Podiatry Services
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140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry
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140.431	Services Not Covered by Independent Clinical Laboratories
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140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
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- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
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- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
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- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
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- 140.463 Clinic Service Payment
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- 140.465 Speech and Hearing Clinics (Repealed)
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- 140.470 Eligible Home Health Providers
- 140.471 Description of Home Health Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
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- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
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- 140.483 Limitations on Family Planning Services
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- 140.486 Illinois Healthy Women
- 140.487 Healthy Kids Program Timeliness Standards

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140.561	Support Costs Components
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140.574	Capital Rates for Rented Facilities
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140.578	Property Taxes
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140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities
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- 140.870 Sponsor Responsibilities (Repealed)
- 140.875 Department Responsibilities (Repealed)
- 140.880 Provider Qualifications (Repealed)
- 140.885 Provider Responsibilities (Repealed)
- 140.890 Payment Methodology (Repealed)
- 140.895 Contract Monitoring (Repealed)
- 140.896 Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
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- 140.903 Definitions (Recodified)
- 140.904 Times and Staff Levels (Repealed)
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- 140.909 Statewide Rates (Recodified)
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- 140.911 Basic Rehabilitation Aide Training Program (Recodified)
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Section

- 140.920 General Description
- 140.922 Covered Services
- 140.924 Maternal and Child Health Provider Participation Requirements
- 140.926 Client Eligibility (Repealed)
- 140.928 Client Enrollment and Program Components (Repealed)
- 140.930 Reimbursement
- 140.932 Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section

- 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)

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- 140.942 Definition of Terms (Recodified)
- 140.944 Notification of Negotiations (Recodified)
- 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
- 140.948 Negotiation Procedures (Recodified)
- 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
- 140.952 Closing an ICARE Area (Recodified)
- 140.954 Administrative Review (Recodified)
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- 140.958 Admitting and Clinical Privileges (Recodified)
- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
- 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
- 140.964 Contract Monitoring (Recodified)
- 140.966 Transfer of Recipients (Recodified)
- 140.968 Validity of Contracts (Recodified)
- 140.970 Termination of ICARE Contracts (Recodified)
- 140.972 Hospital Services Procurement Advisory Board (Recodified)
- 140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
- 140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

- 140.990 Primary Care Case Management Program
- 140.991 Primary Care Provider Participation Requirements
- 140.992 Population Eligible to Participate in the Primary Care Cost Management Program
- 140.993 Care Management Fees
- 140.994 Panel Size and Affiliated Providers
- 140.995 Mandatory Enrollment
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- 140.TABLE A Medicare Recommended Screening Procedures (Repealed)
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140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
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140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a

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maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at

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12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended

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at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October

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1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236,

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effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg.

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10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.12 Participation Requirements for Medical Providers**EMERGENCY**

The provider shall agree to:

- a) Verify eligibility of recipients prior to providing each service;
- b) Allow recipients the choice of accepting or rejecting medical or surgical care or treatment;
- c) Provide supplies and services in full compliance with all applicable provisions of State and federal laws and regulations pertaining to nondiscrimination and equal

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employment opportunity including but not limited to:

- 1) Full compliance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin;
 - 2) Full compliance with Section 504 of the Rehabilitation Act of 1973 and 45 CFR 84, which prohibit discrimination on the basis of handicap; and
 - 3) Without discrimination on the basis of religious belief, political affiliation, sex, age or disability;
- d) Comply with the requirements of applicable federal and State laws and not engage in practices prohibited by such laws;
- e) Provide, and upon demand present documentation of, education of employees, contractors and agents regarding the False Claims Act that complies with all requirements of 42 USC 1396a(a)(68);
- fe) Hold confidential, and use for authorized program purposes only, all Medical Assistance information regarding recipients;
- gf) Furnish to the Department, in the form and manner requested by it, any information it requests regarding payments for providing goods or services, or in connection with the rendering of goods or services or supplies to recipients by the provider, his agent, employer or employee;
- hg) Make charges for the provision of services and supplies to recipients in amounts not to exceed the provider's usual and customary charges and in the same quality and mode of delivery as are provided to the general public;
- ih) Accept as payment in full the amounts established by the Department.
- 1) If a provider accepts an individual eligible for medical assistance from the Department as a Medicaid recipient, such provider shall not bill, demand or otherwise seek reimbursement from that individual or from a financially responsible relative or representative of the individual for any service for which reimbursement would have been available from the Department if the provider had timely and properly billed the Department. For purposes of this subsection, "accepts" shall be deemed to include:

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- A) an affirmative representation to an individual that payment for services will be sought from the Department;
 - B) an individual presents the provider with his or her medical card and the provider does not indicate that other payment arrangements will be necessary; or
 - C) billing the Department for the covered medical service provided an eligible individual.
- 2) If an eligible individual is entitled to medical assistance with respect to a service for which a third party is liable for payment, the provider furnishing the service may not seek to collect from the individual payment for that service if the total liability of the third party for that service is at least equal to the amount payable for that service by the Department.
- ji) Accept assignment of Medicare benefits for public aid recipients eligible for Medicare, when payment for services to such persons is sought from the Department;
 - kj) Complete an MCH (Maternal and Child Health) Primary Care Provider Agreement in order to participate in the Maternal and Child Health Program (see Section 140.924(a)(1)(D)); and
 - lk) In the case of long term care providers, assume liability for repayment to the Department of any overpayment made to a facility regardless of whether the overpayment was incurred by a current owner or operator or by a previous owner or operator. Liability of current and previous providers to the Department shall be joint and several. Recoveries by the Department under this Section may be made pursuant to Sections 140.15 and 140.25. A current or previous owner or lessee may request from the Department a list of all known outstanding liabilities due the Department by the facility and of any known pending Department actions against a facility that may result in further liability. For purposes of this Section, "overpayment" shall include, but not be limited to:
 - 1) Amounts established by final administrative decisions pursuant to 89 Ill. Adm. Code 104;
 - 2) Overpayments resulting from advance C-13 payments made pursuant to Section 140.71;

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- 3) Liabilities resulting from nonpayment or delinquent payment of assessments pursuant to Sections 140.82, 140.84 and 140.94; and
- 4) Amounts identified during past, pending or future audits that pertain to audit periods prior to a change in ownership and are conducted pursuant to Sections 140.30 and 140.590. Liability of current owners or operators for amounts identified during such audits shall be as follows:
 - A) For past audits (audits completed before changes in ownership), liability shall be the amount established by final administrative decision.
 - B) For pending audits (audits initiated, but not completed prior to the change in ownership), liability shall be limited to the lesser of the amounts established by final administrative decision or two months of service revenue. Two months of service revenue is defined as the most recent two months of Medicaid patient days multiplied by the total Medicaid rate in effect on the date the new owner or operator is enrolled in the Program as a provider by the Department. The Medicaid rate in effect on the date of enrollment shall be used even if that rate is subsequently changed.
 - C) For future audits (audits initiated after the change in ownership but pertaining to an audit period prior to a change in ownership), liability shall be limited as described in subsection (k)(4)(B) of this Section.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
148.117	New Section
148.404	Amendment
148.408	Amendment
148.418	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: January 1, 2007
- 6) These emergency amendments are not expected to expire before the end of the 150-day period
- 7) Date Filed with the Index Department: December 29, 2006
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The implementation of Outpatient Assistance Adjustments quarterly payment program and changes to the Hospital Access Improvement payment program will provide additional funding to high volume Medicaid providers, to ensure access to quality health care for the Department's medical assistance clients requiring care. The emergency amendments are necessary in order to conform with federally approved amendments to the Title XIX State plan.
- 10) Complete Description of the Subjects and Issues Involved: The implementation of Outpatient Assistance Adjustments quarterly payment program will provide additional funding to high volume Medicaid providers, to ensure access to quality health care for the Department's medical assistance clients requiring outpatient care. The changes for the Hospital Access Improvement payment program are needed in order to conform with federally approved amendments to the Title XIX State plan.
- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
148.140	Amendment	30 Ill. Reg. 13268; August 11, 2006
148.210	Amendment	30 Ill. Reg. 13636; August 18, 2006

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- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.
- 13) Information and questions regarding this amendment shall be directed to:

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100	Outpatient Rural Hospital Adjustment Payments
148.103	Outpatient Service Adjustment Payments
148.105	Psychiatric Adjustment Payments
148.110	Psychiatric Base Rate Adjustment Payments
148.112	High Volume Adjustment Payments
148.115	Rural Adjustment Payments
<u>148.117</u>	<u>Outpatient Assistance Adjustment Payments</u>

EMERGENCY

148.120	Disproportionate Share Hospital (DSH) Adjustments
148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements

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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997,

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for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27

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Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.117 Outpatient Assistance Adjustment Payments
EMERGENCY

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- a) Qualifying Criteria. Outpatient Assistance Adjustment Payments, as described in this Section, shall be made to Illinois hospitals meeting one of the criteria identified below:
- 1) A hospital that qualifies for Disproportionate Share Adjustment Payments for rate year 2007 as defined in Section 148.120, has an emergency care percentage greater than 70%, and has provided greater than 10,500 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.
 - 2) A general acute care hospital that qualifies for Disproportionate Share Adjustment payments for rate year 2007 as defined in Section 148.120 and has an emergency care percentage greater than 85%.
 - 3) A general acute care hospital that does not qualify for Medicaid Percentage Adjustment Payments for rate year 2007 as defined in Ill. Adm. Code 148.122, located in Cook County, outside the City of Chicago, that has an emergency care percentage greater than 63%, that has provided more than 10,750 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year, and that has provided more than 325 Medicaid surgical group outpatient ambulatory procedure listing services in the outpatient assistance base year.
 - 4) A general acute care hospital located outside of Cook County, that qualifies for Medicaid Percentage Adjustment Payments for rate year 2007 as defined in Section 148.122, that is a trauma center recognized by the Illinois Department of Public Health (IDPH) as of July 1, 2006, that has an emergency care percentage greater than 58%, and that has provided more than 1,000 Medicaid Non-emergency/Screening outpatient ambulatory procedure listing services in the outpatient assistance base year.
- b) Outpatient Assistance Adjustment Payments
- 1) For hospitals qualifying under subsection (a)(1) above the rate is \$139.00.
 - 2) For hospitals qualifying under subsection (a)(2) above the rate is \$336.25.
 - 3) For hospitals qualifying under subsection (a)(3) above the rate is \$200.25.
 - 4) For hospitals qualifying under subsection (a)(4) above the rate is \$217.25.

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c) Payment to a Qualifying Hospital

- 1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by the Medicaid outpatient ambulatory procedure listing services in the outpatient assistance adjustment base year.
- 2) For the outpatient assistance adjustment period occurring in State fiscal year 2007, total payments will equal methodologies described in subsection (c)(1) of this Section. For the period January 1, 2007 through June 30, 2007, total annual payments to each qualifying hospital shall be divided in two, and paid, at least, on a quarterly basis.
- 3) For the outpatient assistance adjustment period for fiscal year 2008 and after, total payments will equal the methodologies described in subsection (c)(1) of this Section and shall be paid to the hospital, at least, on a quarterly basis.

d) Definitions

- 1) "Emergency care percentage" means a fraction, the numerator of which is the total Group 3 ambulatory procedure listing services as described in Section 148.140(b)(1)(C), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006, and the denominator of which is the total ambulatory procedure listing services as described in Section 148.140(b)(1), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006.
- 2) "General acute care hospital" is a hospital that does not meet the definition of a hospital defined in 89 Ill. Adm. Code 149.50(c).
- 3) "Outpatient ambulatory procedure listing payments" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

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- 4) "Outpatient assistance adjustment year" means, beginning January 1, 2007, the 6-month period beginning on January 1, 2007 and ending June 30, 2007, and beginning July 1, 2007, the 12-month period beginning July 1 of the year and ending June 30 of the following year.
- 5) "Outpatient assistance base year" means the 12-month period beginning on July 1, 2004, and ending June 30, 2005.
- 6) "Surgical group outpatient ambulatory procedure listing services" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1)(A), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.
- 7) "Non-emergency/Screening outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(C)(iii), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

(Source: Added by emergency rulemaking at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days)

Section 148.404 Medicaid High Volume Adjustment Payments**EMERGENCY**

- a) Qualifying Criteria. Medicaid High Volume Adjustment Payments shall be made to a qualifying Illinois hospital as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it is:
 - 1) an Illinois hospital that did not qualify for Medicaid Percentage Adjustments as described in Section 148.122 for the 12-month period beginning on October 1, 2004 and provided more than 10,000 Medicaid inpatient days in the Medicaid high volume base period; or

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- 2) an Illinois general acute care hospital as defined in Section 148.270(c)(1) that did qualify for Medicaid Percentage Adjustment Payments as described in Section 148.122 for the 12-month period beginning on October 1, 2004 and provided more than 21,000 Medicaid inpatient days in the Medicaid high volume base period.
- b) The following classes of hospitals are ineligible for High Volume Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:
- 1) County-owned hospitals as described in Section 148.25(b)(1)(A).
 - 2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
 - 3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).
- c) Medicaid High Volume Adjustment Payments
- 1) For a hospital qualifying under subsection (a)(1) of this Section, payment is as follows:
 - A) A hospital that:
 - i) provided less than or equal to 14,500, but more than 10,000, Medicaid inpatient days in the Medicaid high volume base period, shall receive payments equal to the product of \$90 multiplied by the qualifying hospital's Medicaid inpatient days;
 - ii) provided less than or equal to 18,500, but more than 14,500, Medicaid inpatient days in the Medicaid high volume base period shall receive payments equal to the product of \$135 multiplied by the qualifying hospital's Medicaid inpatient days;
 - iii) provided less than or equal to 20,000, but more than 18,500, Medicaid inpatient days in the Medicaid high volume base period shall receive payments equal to the

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product of \$225 multiplied by the qualifying hospital's Medicaid inpatient days; or

- iv) provided 20,000 or more Medicaid inpatient days in the Medicaid high volume base period shall receive payments equal to the product of \$900 multiplied by the qualifying hospital's Medicaid inpatient days.

- B) Payments will be the lesser of the calculation described in subsection (c)(1)(A)(i), (c)(1)(A)(ii), (c)(1)(A)(iii), and (c)(1)(A)(iv) or \$19 million dollars.

- 2) For a hospital qualifying under subsection (a)(2) of this Section, payment shall equal the product of \$35 multiplied by the qualifying hospital's Medicaid inpatient days.:

~~A) Payment equal to the product of \$35 multiplied by the qualifying hospital's Medicaid inpatient days.~~

~~B) Payments will be the lesser of the calculation described in subsection (c)(2)(A) or \$1,200,000.~~

- 3) A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection.

d) Payment to a Qualifying Hospital

- 1) For the Medicaid high volume adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (f) of this Section being met shall be paid within 100 days after the conditions described in subsection (f) have been met.
- 2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.

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- e) Definitions
- 1) "Medicaid high volume adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.
 - 2) "Medicaid high volume base period" means the cost report on file with the Department on July 1, 2004, for the hospital's fiscal year ending in 2002.
 - 3) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as contained in the hospital's cost report on file with the Department as of July 1, 2004, for the hospital's fiscal year ending in 2002.
- f) Payment Limitations: Payments under this Section are not due and payable until:
- 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
 - 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
 - 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days)

Section 148.408 Trauma Center Adjustment Payments**EMERGENCY**

- a) Qualifying Criteria. Trauma Center Adjustment Payments shall be made to a qualifying Illinois hospital as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it was a general acute care hospital that, as of January 1, 2005 was considered a trauma center and meets the requirements specified in subsection (c).

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- b) The following classes of hospitals are ineligible for Trauma Center Adjustment Payments associated with the qualifying criteria listed in subsection (a) of this Section:
- 1) County-owned hospitals as described in Section 148.25(b)(1)(A).
 - 2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
 - 3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).
- c) Trauma Center Adjustment Payments
- 1) Level I Trauma Center Adjustment Payments
 - A) For an Illinois general acute care hospital that was considered a Level I trauma center as of January 1, 2005, that is located in a large urban area or an other urban area that qualified for Medicaid Percentage Adjustments as described in Section 148.122 as of October 1, 2004, shall receive payments equal to the product of \$800 multiplied by the qualifying hospital's Medicaid intensive care unit (ICU) days in the trauma base period.
 - i) For a hospital located in a large urban area outside of a city with a population in excess of one million people, the Department shall pay an amount equal to the Level I Trauma Center Adjustment Payment calculated in subsection (c)(1)(A) of this Section multiplied by 4.5.
 - ii) For a hospital located in an other urban area, the Department shall pay an amount equal to the Level I Trauma Center Adjustment Payment calculated in (c)(1)(A) multiplied by 8.5.
 - 2) Level II Trauma Center Adjustment Payments
 - A) For an Illinois general acute care hospital that was considered a Level II trauma center as of January 1, 2005, and designated a Level III perinatal center, the payment shall equal the product of

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\$475 multiplied by the qualifying hospital's Medicaid inpatient days in the trauma base period.

- B) For an Illinois general acute care hospital that was considered a Level II trauma center as of January 1, 2005, and designated a Level II or II+ perinatal center that has a ratio of Medicaid ICU days to total Medicaid days greater than five percent, the payment shall equal the product of \$475 multiplied by the qualifying hospital's Medicaid inpatient days in the trauma base period.
- A) ~~For an Illinois general acute care hospital that was considered a Level II trauma center as of January 1, 2005 and is located in a county with a population in excess of three million people, the payment shall equal:~~
- ~~i) A hospital qualifying under subsection (c)(2)(A) of this Section shall be paid \$4,000 per day for the first 500 Medicaid inpatient days in the trauma base period.~~
 - ~~ii) A hospital qualifying under subsection (c)(2)(A) of this Section shall be paid \$2,000 per day for the Medicaid inpatient days between 501 and 1,500 in the trauma base period.~~
 - ~~iii) A hospital qualifying under subsection (c)(2)(A) of this Section shall be paid \$100 per day for each Medicaid inpatient day over 1,500 in the trauma base period.~~
- B) ~~For an Illinois general acute care hospital that was considered a Level II trauma center as of January 1, 2005, and is located in a large urban area outside of a county with a population in excess of three million people and, as of January 1, 2005, was designated a Level III perinatal center or designated a Level II or II+ perinatal center that has a ratio of Medicaid ICU days to total Medicaid days greater than five percent, the payment shall equal:~~
- ~~i) A hospital qualifying under subsection (c)(2)(B) of this Section shall be paid \$4,000 per day for the first 500 Medicaid inpatient days in the trauma base period.~~

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- ~~ii) A hospital qualifying under subsection (c)(2)(B) of this Section shall be paid \$2,000 per day for the Medicaid inpatient days between 501 and 1,500 in the trauma base period.~~
- ~~iii) A hospital qualifying under subsection (c)(2)(B) of this Section shall be paid \$100 per day for each Medicaid inpatient day over 1,500 in the trauma base period.~~

3) Pediatric Trauma Center Adjustment Payments

- A) Qualifying Criteria: Payment shall be for all Illinois children's hospitals designated as Level I pediatric trauma centers that provided more than 30,000 Medicaid days in State fiscal year 2003 and those out-of-state Level I pediatric trauma centers that provided more than 700 Illinois Medicaid admissions in State fiscal year 2003.
- B) A hospital qualifying under subsection (c)(3)(A) of this Section shall receive payment equal to the product of \$325 multiplied by the hospital's Illinois Medicaid ICU days.
- C) For out-of-state hospitals qualifying under subsection (c)(3)(A), the amount calculated under subsection (c)(3)(B) shall be multiplied by 2.25.

4) A hospital that enrolled to provide Medicaid services during fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (c).

5) Notwithstanding any other provisions of this subsection (c), a children's hospital as defined at 89 Ill. Adm. Code 149.49(c)(3)(b), is not eligible for the payments described in subsections (c)(1) and (c)(2) of this Section.

d) Payment to a Qualifying Hospital

1) For the trauma center adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of

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September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (f) being met shall be paid within 100 days after the conditions described in subsection (f) of this Section have been met.

- 2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.
- e) Definitions
- 1) "Large urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a population in excess of 1,000,000, and with an urban hospital as described in Section 148.25(g)(4).
 - 2) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as contained in the hospital's cost report on file with the Department as of July 1, 2004, for the hospital's fiscal year ending in 2002.
 - 3) "Medicaid intensive care unit days" means, for a given hospital, the number of hospital inpatient days during which Medicaid recipients received intensive care services from the hospital, as determined from the hospital's 2002 Medicaid cost report on file with the Department on July 1, 2004.
 - 4) "Other urban area" means an area located within a metropolitan statistical area, as defined by the U.S. Office of Management and Budget, 725 17th Street N.W., Washington D.C. 20503, in OMB Bulletin 04-03, dated February 18, 2004, with a city with a population in excess of 50,000 or with a total population in excess of 100,000, and with an urban hospital as described in Section 148.25(g)(4).
 - 5) "Trauma center adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.

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- 6) "Trauma center base period" means days reported in the hospital's 2002 Medicaid cost report on file with the Department on July 1, 2004.
- f) Payment Limitations: Payments under this Section are not due and payable until:
 - 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
 - 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
 - 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days)

Section 148.418 Long Term Acute Care Hospital Adjustment Payments**EMERGENCY**

- a) Qualifying Criteria: Long Term Acute Care Hospital Adjustment Payments described in subsection (b) of this Section shall be made to an Illinois long term stay hospital, as defined in 89 Ill. Adm. Code 149.50(c)(4), excluding:
 - 1) County-owned hospitals as described in Section 148.25(b)(1)(A).
 - 2) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
 - 3) A hospital owned or operated by a State agency, as described in Section 148.25(b)(6).
- b) Long Term Acute Care Hospital Adjustment Payments
 - 1) For a hospital qualifying under subsection (a) of this Section ~~that qualified for Medicaid Percentage Adjustment Payments under Section 148.122 for the 12-month period beginning on October 1, 2004~~, the Department shall pay an amount equal to the product of \$125 multiplied by Medicaid inpatient days provided during the long term acute care hospital base period.

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- ~~2)~~ ~~For a hospital qualifying under subsection (a) of this Section that did not qualify for Medicaid Percentage Adjustment Payments under Section 148.122 for the 12-month period beginning on October 1, 2004, the Department shall pay an amount equal to the product of \$1,250 multiplied by Medicaid inpatient days of care provided during the long term acute care hospital base period.~~
- ~~2)3)~~ A hospital that enrolled to provide Medicaid services during State fiscal year 2003 shall have its utilization and associated reimbursements annualized prior to the payment calculations being performed under this subsection (b).
- c) Payment to a Qualifying Hospital
- 1) For the long term acute care hospital adjustment period for fiscal year 2006, fiscal year 2007 and fiscal year 2008 total payments will equal the methodologies described in subsection (b) of this Section and shall be paid to the hospital in four equal installments on or before the seventh State business day of September, December, March and May. The sum of the amounts required prior to the conditions described in subsection (e) being met shall be paid within 100 days after the conditions described in subsection (e) of this Section have been met.
 - 2) If a hospital closes during the fiscal year, payments will be prorated based on the number of days the hospital was open during the fiscal year.
- d) Definitions
- 1) "Long term acute care hospital adjustment period" means, beginning August 1, 2005, the 11-month period beginning on August 1, 2005 and ending June 30, 2006, and beginning July 1, 2006, the 12-month period beginning July 1 of the year and ending June 30 of the following year.
 - 2) "Long term acute care hospital base period" means the 12-month period beginning on July 1, 2002 and ending on June 30, 2003.
 - 3) "Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act

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(Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the long term care hospital base period that was adjudicated by the Department through June 30, 2004.

- e) Payment Limitations: Payments under this Section are not due and payable until:
- 1) the methodologies described in this Section receive federal approval from the Centers for Medicare and Medicaid Services in an appropriate State Plan Amendment;
 - 2) the assessment imposed under 89 Ill. Adm. Code 140.80 is determined to be a permissible tax under Title XIX of the Social Security Act; and
 - 3) the assessment described in 89 Ill. Adm. Code 140.80 is in effect.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days)

DEPARTMENT OF AGRICULTURE

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a) Part(s) (Heading and Code Citation): Agrichemical Facility Response Action Program, 8 Ill. Adm. Code 259

1) Rulemaking:

- A) Description: Retail agrichemical facilities conducting remediation activities of soil or groundwater contamination from fertilizer releases may opt to request a written approval from the Department of Agriculture for the voluntary site assessment and corrective action. The owner or operator of the facility can apply for Department review and approval for plans and reports detailing the scope and implementation of the environmental response actions. Upon successful completion of the fertilizer release cleanup and remediation, the Department shall issue a notice of closure indicating that site specific cleanup objectives have been met and no further remedial action is required to remedy the fertilizer release pursuant to the Illinois Pesticide Act [415 ILCS 60/19.3].
- B) Statutory Authority: Illinois Pesticide Act [415 ILCS 60/19]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date Agency anticipates First Notice: March 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities, small businesses, or not for profit corporations. Small businesses, such as some types of agrichemical facilities, will benefit from the remediation option allowed by the proposed rules.
- F) Agency contact person for information:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/785-2427
217/524-4882 (fax)

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- G) Related rulemakings and other pertinent information: The rules for the Land Application Authorization Program, 8 Ill. Adm. Code 258, are related to this rulemaking.
- b) Part(s) (Heading and Code Citation): Livestock Management Facility Regulations, 8 Ill. Adm. Code 900
- 1) Rulemaking:
- A) Description: The current regulations require owners of livestock facilities to mail copies of the Notice of Intent to Construct form to owners of property located within the setback distances, depending on the type of facility. The procedures and timeframes are very prescriptive and have caused the cessation of projects. The proposed amendments would include an opportunity for the owner to correct any deficiencies prior to the rescission of the setback compliance acknowledgment or the imposition of further enforcement action.
- B) Statutory Authority: Livestock Management Facilities Act [510 ILCS 77]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date Agency anticipates First Notice: March 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. Small businesses, such as some types of livestock facilities, may benefit from the additional time period prior to an enforcement action.
- F) Agency contact person for information:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
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DEPARTMENT OF AGRICULTURE

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FAX: 217/524-4882

G) Related rulemakings and other pertinent information: Nonec) Part(s) (Heading and Code Citation): Farmland Preservation Act, 8 Ill. Adm. Code 7001) Rulemaking:

A) Description: The Farmland Preservation Act requires that state agency policy statements and working agreements on farmland preservation shall be updated by the state agency and reviewed and approved by the Department of Agriculture every three years. The purpose of the rulemaking activity is to update the policy statements and working agreements, as necessary, to protect Illinois' agricultural land base from needless state agency farmland conversion impacts.

B) Statutory Authority: Farmland Preservation Act [505 ILCS 75/1-8]

C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.

D) Date Agency anticipates First Notice: March 2007

E) Effect on small businesses, small municipalities or not for profit corporations: No impacts anticipated.

F) Agency contact person for information:

Steve Chard
Illinois Department of Agriculture
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Springfield, IL 62794-9281
217/785-2661
FAX: 217/524-4882

G) Related rulemakings and other pertinent information: None

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d) Part(s) (Heading and Code Citation): Animal Welfare Act, 8 Ill. Adm. Code 251) Rulemaking:

- A) Description: Cites to the Code of Federal Regulations will be updated to 2007.

Language clarification may be needed for the equine rescue facilities and the dog day care facilities.

- B) Statutory Authority: Implementing and authorized by the Animal Welfare Act [225 ILCS 605] and the Illinois Diseased Animals Act [510 ILCS 50]

- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. The Advisory Board of Livestock Commissioners is scheduled to meet in the Spring of 2007.

- D) Date Agency anticipates First Notice: March 2007

- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated

- F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281.
217/782-4944
FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Diseased Animals, 8 Ill. Adm. Code 851) Rulemaking:

- A) Description: The Department will be adding a new section on guidelines for establishing and releasing quarantines.

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The reportable diseases and contagious or infectious diseases lists will be reviewed for possible changes or additions.

Changes may need to be made in Johne's disease program to reflect possible changes in the U.S. Department of Agriculture's program.

Section 85.120 will be revised to include brucellosis testing for all cervidae entering Illinois (currently only elk). Animals will be required to originate from a certified brucellosis-free herd or be negative to an official test within 30 days prior to entry on all animals six months of age and older

General regulations will be added for removal of quarantines for diseases not specifically covered in other laws.

References to the Code of Federal Regulations will be updated to 2007.

- B) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50/1], Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6], Livestock Auction Market Law [225 ILCS 640/1], and Equine Infectious Anemia Control Act [510 ILCS 65].
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. The Advisory Board of Livestock Commissioners is scheduled to meet in the Spring 2007.
- D) Date Agency anticipates First Notice: March 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: Will require additional testing on cervidae entering Illinois which will affect cervid producers outside of Illinois. No effect on Illinois producers.
- F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281

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Springfield, IL 62794-9281.
217/782-4944
FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Animal Disease Laboratories, 8 Ill. Adm. Code 110
- 1) Rulemaking:
- A) Description: Disposal fees will be added for all necropsy cases, regardless of species.
- Distribution of laboratory reports will be clarified. They will be issued once (by US mail, faxed or email). If a second delivery method is requested, a charge will be assessed.
- Various laboratory fees will be reviewed and increased for serology and immunohistochemistry samples.
- Persons who do not have an account with the Department of Agriculture and do not create one, will be required to pay in advance of services rendered. The laboratory has many submissions from individuals who only use their services once, then do not pay when billed.
- B) Statutory Authority: Animal Disease Laboratories Act [510 ILCS 10/0.01]
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in the Spring 2007.
- D) Date Agency anticipates First Notice: March 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: Veterinarians, livestock producers and others using the animal disease laboratories will pay higher laboratory fees for requested tests. There is no change for testing mandated by state laws or regulations.
- F) Agency contact person for information:

DEPARTMENT OF AGRICULTURE

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Dr. Colleen O'Keefe
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FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Grain Code, 8 Ill. Adm. Code 281

1) Rulemaking:

- A) Description: The administrative rules are being updated pursuant to the Grain Code in Public Act 93-0225, effective 7/21/03. Statutory amendments include the use of electronic warehouse receipts and other electronic documents to be used in the industry; an increase in licensing fees; a three-tier examination system of licensees based on the type of grain merchandising activity utilized by the respective companies; an assessment of first sellers of grain to grain dealers that will be utilized to rebuild and maintain the equity in the Illinois Grain Insurance Fund; and assessments of lenders possessing collateral warehouse receipts or executing repurchase agreements with licensees.
- B) Statutory Authority: Grain Code [240 ILCS 40]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.
- D) Date Agency anticipated First Notice: April 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is expected.
- F) Agency contact person for information:

Stuart Jackson

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Illinois Department of Agriculture
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State Fairgrounds
Springfield, IL 62794-9281
217/785-8302
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Weights and Measures Act, 8 Ill. Adm. Code 600

1) Rulemaking:

A) Description: Define and provide enforcement for Maintenance Requirement contained in the General Code of the National Institute of Standards and Technology's Handbook 44.

Repeal implementation date for Grain Moisture Meter specifications and tolerances. Rule provided an extension to the implementation date contained in Handbook 44. (Effective date in rule is January 1, 2000.)

Repeal exemption of the ticket printer requirement for vehicle-tank meters. This requirement was adopted by the National Conference on Weights and Measures in 1992. The ticket printer requirement is contained in the Vehicle-Tank Meter User Requirement Section of NIST Handbook 44. This handbook is adopted as regulation in Illinois. However, the requirement for the ticket printers on vehicle-tank meters was rejected by regulation. The national requirement was retroactive as of January 1, 1999, to provide device owners a reasonable period of time to install printers. The requirement for a printed ticket enables customers to receive accurate delivery information to evaluate transactions and invoices. The repeal of this exemption will include an effective date to allow device owners time to be in compliance with the printer requirement. The exemption should be repealed to protect consumers and to be consistent with national regulations.

Repeal requirement that the advertised price for liquid petroleum products be equal to the price setting shown on the pump. This requirement prohibits the discounting of petroleum products unless the pump is capable of computing the discounted price. There are many marketing strategies which allow discounts for petroleum products such as with purchase of car wash, with use of a company credit card, or by participation in a discount club. Eliminating this requirement

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will enable companies to offer these discounts without violating advertising regulations.

Repeal requirement that the type of service (full-service, self-service, etc.) be displayed in the advertisement of petroleum products. The majority of businesses do not include the type of service in the advertisement since many stations no longer offer full service.

- B) Statutory Authority: Weights and Measures Act [225 ILCS 470]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: February 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. This rule will only affect small businesses that do not properly maintain their weighing and measuring devices or that do not have ticket printers on their vehicle-tank meters.
- F) Agency contact person for information:

Jonelle Brent
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/785-8301
FAX: 217/524-7801

- G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citation): Motor Fuel and Petroleum Standards Act, 8 Ill. Adm. Code 850

1) Rulemaking:

- A) Description: Amend regulation for Label on Motor Fuel Dispensing Device to clarify placement of label. The current language does not

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specify that all grades which contain at least 1% by volume of ethanol, of methanol or a combination thereof be labeled with the maximum percentage contained in the motor fuel. The requirement is only that a label be placed on the front or sides of the dispenser and within the top 30% of the height of the dispenser. For dispensers where more than one grade of gasoline is offered for sale, this requirement does not indicate if only one grade or all grades contain ethanol, methanol or combination thereof.

- B) Statutory Authority: Motor Fuel and Petroleum Standards Act [815 ILCS 370]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: February 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. The effect on small businesses would be minimal to properly label all grades of gasoline that contain at least 1% by volume of ethanol.
- F) Agency contact person for information:

Jonelle Brent
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/785-8301
FAX: 217/524-7801

- G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citation): Administrative Rules (Formal Administrative Proceedings; Contested Cases; Petitions; Public Disclosure), 8 Ill. Adm. Code 1

- 1) Rulemaking:

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- A) Description: The Department's procedural rules will be updated, including adding a provision establishing a fee for any party requesting a copy of an administrative hearing transcript, and reorganized.
- B) Statutory Authority: Sections 5-10, 5-145, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-50, and 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10, 5-145, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-50, and 10-60] and the Freedom of Information Act [5 ILCS 140]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: March 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: Any party requesting a copy of an administrative hearing transcript will be responsible for the costs associated with the transcription.
- F) Agency contact person for information:
- Margaret L. van Dijk
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/785-4507
FAX: 217/785-4505
- G) Related rulemakings and other pertinent information: None
- k) Part(s) (Heading and Code Citation): Organizational Chart, Description, Rulemaking Procedure, and Programs, 2 Ill. Adm. Code 700
- 1) Rulemaking:
- A) Description: The Department will be updating these rules to keep them in line with the current administration.

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- B) Statutory Authority: Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]
- C) Schedule meeting/hearing date: None
- D) Date Agency anticipates First Notice: First Notice publication is not required under this Part.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Margaret L. van Dijk
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/785-4507
FAX: 217/785-4505
- G) Related rulemakings and other pertinent information: None
- l) Part(s) (Heading and Code Citation): Freedom of Information Act, 2 Ill. Adm. Code 701
- 1) Rulemaking:
- A) Description: Amendments to this Part will update these rules in accordance with statutory amendments. The fee schedule in Section 701.140 will also be amended and updated.
- B) Statutory Authority: Freedom of Information Act [5 ILCS 140]
- C) Schedule meeting/hearing date: None
- D) Date Agency anticipates First Notice: First Notice publication is not required under this Part.
- E) Effect on small businesses, small municipalities or not for profit corporations: There will be an increase in duplication costs for those requesting copies under the FOIA.

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F) Agency contact person for information:

Margaret L. van Dijk
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/785-4507
FAX: 217/785-4505

G) Related rulemakings and other pertinent information: Nonem) Part(s) (Heading and Code Citation): Halal Food Act, 8 Ill. Adm. Code 1901) Rulemaking:

A) Description: The Department is promulgating new rules for the slaughter of meat in accordance with changes made to the Consumer Fraud and Deceptive Business Practices Act.

B) Statutory Authority: Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2LL]

C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: March 2007

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect slaughter facilities wanting to slaughter meat in the Halal manner.

F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/785-5680

DEPARTMENT OF AGRICULTURE

JANUARY 2007 REGULATORY AGENDA

FAX: 217/558-6033

- G) Related rulemakings and other pertinent information: None
- n) Part(s) (Heading and Code Citation): Illinois State Fair, and DuQuoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds, 8 Ill. Adm. Code 270
- 1) Rulemaking:
- A) Description: New regulations will be developed regarding advertising in State Fair publications [20 ILCS 210/6] and leasing buildings during the State Fair. Amendments to "Facility Availability" (Section 270.420) will be amended to facilitate additional rentals to maximize income throughout the non-fair season. A clarification is needed to further explain the Department's policy of allowing last year's lessees to have first right to the same dates in subsequent years in Section 270.380 concerning "Application for Space".
- Amendments to "Non-Fair Space Rental, Payment Process, Camping, Facility Availability, Insurance, Concessions, Gambling, Raffles, Prizes, Beverages, Rate Schedules, Contract and General Stabling Rules" will be amended to facilitate additional rentals to maximize income throughout the non-fair season. In addition, the amendments will bring the rules in line with new procedures on the DuQuoin and Illinois State Fairgrounds.
- B) Statutory Authority: State Fair Act [20 ILCS 210] and Section 40.14 and Section 16 of the Civil Administrative code of Illinois [20 ILCS 5/16 and 40.14]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: May 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect those wishing to rent space/buildings on the fairgrounds and those advertising in fair publications.

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F) Agency contact person for information:

Shari West
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/558-0014
FAX: 217/785-4505

G) Related rulemakings and other pertinent information: Noneo) Part(s) (Heading and Code Citation): Standardbred, Thoroughbred and Quarter Horse Breeding and Racing Programs, Illinois, 8 Ill. Adm. Code 2901) Rulemaking:

A) Description: The Department will amend Section 290.210(a) to change "registered Illinois conceived and foaled horses that were conceived before May 30, 1995" to "registered Illinois conceived and foaled horses prior to May 30, 1995."

B) Statutory Authority: The Illinois Horse Racing Act of 1975 [230 ILCS 5/30]

C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: May 2007

E) Effect on small businesses, small municipalities or not for profit corporations: No impacts anticipated.

F) Agency contact person for information:

Tom Jennings
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281

DEPARTMENT OF AGRICULTURE

JANUARY 2007 REGULATORY AGENDA

217/782-5011

FAX: 217/785-4505

G) Related rulemakings and other pertinent information: Nonep) Part(s) (Heading and Code Citation): Illinois Seed Law, 8 Ill. Adm. Code 2301) Rulemaking:A) Description: The rule changes will allow the Department to offer different tests that are currently available for seed products and allow the establishment of fees for these tests (i.e. TZ, seed count, etc.).

Section 230.70 may be amended to allow the Department to increase seed permit fees.

Section 230.80 may be amended to allow the Department to increase fees for established services offered (i.e. purity, germination and noxious weed seed testing).

These amendments allow for the Department to update its services offered to those groups or individuals wishing to utilize them.

B) Statutory Authority: The Illinois Seed Law [505 ILCS 110]C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.D) Date Agency anticipates First Notice: May 2007E) Effect on small businesses, small municipalities or not for profit corporations: Anyone utilizing the Department's seed lab will have to pay a fee or increase in fee.F) Agency contact person for information:

Jim Larkin
Illinois Department of Agriculture
P. O. Box 19281

DEPARTMENT OF AGRICULTURE

JANUARY 2007 REGULATORY AGENDA

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- G) Related rulemakings and other pertinent information: None
- q) Part(s) (Heading and Code Citation): Meat and Poultry Inspection Act, 8 Ill. Adm. Code 125
- 1) Rulemaking:
- A) Description: Section 125.90 will be amended to delete "Section 2.26" and replace with "225 ILCS 650/13" since Section 2.26 of the Act has been repealed.
- Other non-substantive changes will be made to the rules to bring them in line with the Meat and Poultry Inspection Act [225 ILCS 650].
- Expanding provisions for existing Section 125.141 by requiring all licensed plants, Type I and Type II, to operate and maintain Sanitation SOP at all times.
- A new section will be added to establish a general definition and standard of identity for standardized meat and poultry products that have been modified to qualify for use of an expressed nutrient content claim in their product names. These products will be identified by an expressed nutrient content claim, such as "fat free," "low fat," and "light," in conjunction with an appropriate standardized term, e.g., "low fat bologna."
- B) Statutory Authority: Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: March 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: All Type I establishments are operating under provisions of

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Sanitation SOP since October 1, 1997. Currently the recordkeeping requirement is limited to operations conducted under inspection. Due to increase in numbers for operations conducted outside of official hours, but still involving meat and poultry products, becomes necessary to expand existing requirements for providing uniform sanitation procedures. Only 8% of very small businesses (Type II) will be required to adopt these rules. The Department will provide guidance and assistance during implementation process.

F) Agency contact person for information:

Dr. Kris Mazurczak
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281
217/782-3817
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: Noner) Part(s) (Heading and Code Citation): Illinois AgriFIRST Program Act, 8 Ill. Adm. Code 9501) Rulemaking:A) Description: Sections 950.50, 950.130 and 950.220 will be repealed in an effort to improve the program and eliminate needless delays that were originally built into the rules.

Other non-substantive changes will be made to the rules to better reflect the Illinois Grant Funds Recovery Act [30 ILCS 705].

B) Statutory Authority: Illinois AgriFIRST Program Act of 2001 [505 ILCS 19]C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.D) Date Agency anticipates First Notice: March 2007

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- E) Effect on small businesses, small municipalities or not for profit corporations: The proposed changes will be beneficial to grant applicants because it will enable the Department to speed up the application review process and award grant funds more quickly.
- F) Agency contact person for information:
- Kim Janssen
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281
217/785-5848
FAX: 217/785-4505
- G) Related rulemakings and other pertinent information: None

ILLINOIS COMMUNITY COLLEGE BOARD

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- a) Part (Heading and Code Citation): Administration of the Illinois Public Community College Act; 23 Ill. Adm. Code, Subpart H: Personnel (new)
- 1) Rulemaking: New Subpart
- A) Description: A new subpart will be proposed to address an opinion issued by the Attorney General stating that employees of the public community colleges, for the purposes of the Ethics Act, are to be considered State employees and that they must also comply with the personnel policies established by the Illinois Community College Board.
- B) Statutory authority: 5 ILCS 430 Sec. 5-5c
- C) Scheduled meeting/hearing dates: Pending comments/revisions from the Board and/or system, a rules addition will be submitted to the Index Department following Board approval.
- D) Date agency anticipates First Notice: No anticipated date has been determined for First Notice.
- E) Affect on small businesses, small municipalities or not-for-profit corporations: The ICCB believes that this rulemaking will not affect not-for-profit corporations.
- F) Agency contact person for information:
- Cherie VanMeter
Administrative Aide
External Affairs
Illinois Community College Board
401 East Capitol Avenue
Springfield, IL 62701-1711
Telephone: (217) 785-0053
- G) Related rulemakings and other pertinent information: None

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- a) Part (Headings and Code Citations): Procedures And Criteria For Reviewing Applications For Provisional Variances; 35 Ill. Adm. Code 180.
- 1) Rulemaking:
- A) Description: The proposal will amend 35 Ill. Adm. Code 180 to reflect the amendments to Sections 35(b), 36, and 37 of the Environmental Protection Act. Amendments to Sections 35(b), 36, and 37 of the Act give authority to the Agency to grant provisional variances rather than the Pollution Control Board. The proposed amendments may also update the Part and correct typographical errors.
- B) Statutory Authority: Implementing and authorized by Sections 35(b) of the Environmental Protection Act [415 ILCS 5/35(b)].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities, or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that file a petition for a provisional variance pursuant to Section 35(b) of the Act will be affected by the proposed amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Annet Godiksen
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Environmental Laboratory Certification Fee Rules; 35 Ill. Adm. Code 185.

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- 1) Rulemaking:
 - A) Description: This rulemaking will set forth the procedures the Agency will use to determine environmental laboratory assessment under Section 17.8 of the Environmental Protection Act.
 - B) Statutory authority: Implementing and authorized by Section 17.8 of the Environmental Protection Act [415 ILCS 5/17.8].
 - C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.
 - D) Date agency anticipates First Notice: Spring 2007
 - E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality, or not-for-profit corporation that requests certification for its laboratories will be affected.
 - F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544
 - G) Related rulemakings and other pertinent information: None.
- c) Part (Heading and Code Citation): Construction Permit Application Fees For Air Pollution Sources; 35 Ill. Adm. Code 250.
 - 1) Rulemaking:
 - A) Description: The proposed new rule will set forth the procedures the Agency will use to collect construction permit application fees for air pollution sources under Section 9.12 of the Environmental Protection Act.

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- B) Statutory authority: Authorized by Section 9.12 of the Environmental Protection Act [415 ILCS 5/9.12].
- C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that submit construction permit applications that trigger the fee provisions would be subject to the procedures set forth in this new rule.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Gina Roccaforte
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
- G) Related rulemaking and other pertinent information: None
- d) Part (Heading and Code Citation): Procedures For Collection Of Air Pollution Site Fees; 35 Ill. Adm. Code 251.
- 1) Rulemaking:
- A) Description: The proposed rule will modify the current rule to address recent amendments made to Section 9.6 of the Environmental Protection Act. In addition, the proposed rule will make miscellaneous changes.
- B) Statutory authority: Authorized by Section 9.6 of the Environmental Protection Act [415 ILCS 5/9.6].
- C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.

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- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that must pay site fees would be subject to the modified applicability provisions.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Charles E. Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
- G) Related rulemaking and other pertinent information: None
- e) Part (Heading and Code Citation): Procedures For Collection Of Asbestos Fees; 35 Ill. Adm. Code 269.
- 1) Rulemaking:
- A) Description: The proposed new rule will set forth the procedures the Agency will use to collect asbestos fees under Section 9.13 of the Environmental Protection Act.
- B) Statutory authority: Authorized by Section 9.13 of the Environmental Protection Act [415 ILCS 5/9.13].
- C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that must file an original 10-day notice of intent to renovate

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or demolish pursuant to 40 CFR 61.145(b) (part of the federal asbestos National Emission Standard for Hazardous Air Pollutants or NESHAP), would be subject to the procedures to set forth in this new rule.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Charles E. Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

- G) Related Rulemaking and other pertinent information: None

- f) Part (Heading and Code Citation): Clean Air Act Permit Program Procedures; 35 Ill. Adm. Code 270.

1) Rulemaking:

- A) Description: The proposed rule will modify the current rule to address recent amendments to the Clean Air Act Permit Program (CAAPP) fee schedule. In addition, the proposed rule will make miscellaneous changes.
- B) Statutory authority: Authorized by Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5].
- C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that are subject to CAAPP fees would be subject to the proposed rule.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

ENVIRONMENTAL PROTECTION AGENCY

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Charles Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

G) Related rulemaking and other pertinent information: None

g) Part (Heading and Code Citation): Alternative Fuels Program; 35 Ill. Adm. Code 275.

1) Rulemaking:

- A) Description: The proposed amendments will expand the renewable fuels grants and rebate program to allow for a rebate for use of B20 (20% biodiesel). The proposed amendments will also update and clarify provisions in the rule.
- B) Statutory authority: Authorized by Sections 15 and 30 of the Alternate Fuels Act [415 ILCS 120/15 and 120/30].
- C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that use or may potentially use B20 as fuel.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Annet Godiksen
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

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(217) 782-5544

- G) Related Rulemaking and other pertinent information: None
- h) Part (Heading and Code Citation): Permit Fees for Installing or Extending Sewers; 35 Ill. Adm. Code 320.
- 1) Rulemaking:
- A) Description: This rulemaking will update the procedures the Agency uses to collect permit fees under Part 320 and the amounts of those fees in response to changes to Section 12.2 of the Environmental Protection Act [415 ILCS 5/12.2].
- B) Statutory authority: Implementing and authorized by Section 12.2 of the Environmental Protection Act [415 ILCS 5/12.2].
- C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality or not-for-profit corporation that is required to obtain a permit from the Agency pursuant to Section 12(b) of the Environmental Protection Act [415 ILCS 5/12(b)] may be impacted by this rulemaking.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Deborah J. Williams
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544
- G) Related rulemakings and other pertinent information: This rulemaking is related to several other rulemakings listed in this Regulatory Agenda that

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are being developed to update or add new Parts to address changes and additions made to the permit fees charged by the Agency's Bureau of Water.

- i) Part (Heading and Code Citation): Procedures For Issuing Loans From The Water Pollution Control Revolving Loan Fund; 35 Ill. Adm. Code 366.

1) Rulemaking:

- A) Description: The Agency will propose amendments to revise procedures for the allocation of funds. Funds in the Water Pollution Control Revolving Fund are subject to an equal division between the service area of the Metropolitan Water Reclamation District of Greater Chicago and the area consisting of the rest of the State. Currently, new funds that are not allocated during the fiscal year are carried over and may be used only for projects in the particular geographical area for which the funds were initially allocated. These amendments would allow funds not obligated in a given fiscal year to be treated as new funds when carried over to the following fiscal year. As new funds, they would once again be subject to the equal division between the two major geographic areas for the purpose of developing an Intended Use Plan only. These amendments also specify at what point these funds lose their geographic identity when utilized for the funding of projects not included in the Intended Use Plan.
- B) Statutory authority: The amended rules implement Title IV-A: Water Pollution Control of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 5/19.8].
- C) Scheduled meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These rules apply only to public entities, such as municipalities, sanitary districts, etc. The amendments will simplify the procedures for obtaining loans from the wastewater treatment loan program.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

- G) Related rulemaking and other pertinent information: None.
- j) Part (Heading and Code Citation): Amendment to Procedure for the Certification of Operators of Wastewater Treatment Works; 35 Ill. Adm. Code 380.
- 1) Rulemaking:
- A) Description: Proposed amendments will modify the groupings of industrial wastewater treatment works and qualifications needed by Wastewater Operators.
- B) Statutory authority: Implementing and authorized by Section 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 and 5/27].
- C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations operating wastewater treatment works may be affected by the proposed amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276

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(217) 782-5544

- G) Related rulemakings and other pertinent information: None.
- k) Parts (Headings and Code Citations): Illinois Environmental Protection Agency Public Water Supplies, Technical Policy Statements; 35 Ill. Adm. Code 651 through 654.
- 1) Rulemaking:
- A) Description: The amendments to these Agency rules will update definitions and explanations of administrative procedures and provide current information to owners, operators, and official custodians of public water supplies. More recent design and operational criteria will be incorporated to provide information necessary for the design, operation, and maintenance of public water supplies and to facilitate the permitting process. In addition, the amendments will exempt from restricted status certain public water supplies that exceed the combined radium standard, provided the supplies meet certain conditions.
- The amendments to these Agency rules will also incorporate technical, financial, and managerial requirements for new Public Water Supplies. The proposed amendments are required by the 1996 amendments to the federal Safe Drinking Water Act (SDWA). On May 22, 1998, the Illinois General Assembly passed SB 545 which, *inter alia*, amends Sections 15 and 18 of the Environmental Protection Act to require that new Public Water Supplies have the technical, financial, and managerial capacity to meet federal and State drinking water regulations. The Governor signed this bill into law on August 14, 1998, as P.A. 90-0773.
- B) Statutory authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/14 through 5/19].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: These amendments will generally benefit small businesses,

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small municipalities, and not-for-profit entities by clarifying the requirements for operations and permits. There may be some additional reporting requirements. These amendments may also affect new small businesses, new small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities own or operate a "public water supply" as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

- G) Related rulemakings and other pertinent information: The Agency is preparing a rulemaking proposal to establish the requirements that must be met by public water supplies that exceed the combined radium standard or the gross alpha particle activity standard, to avoid being placed on restrictive status.

- l) Part (Headings and Code Citations): Illinois Environmental Protection Agency Public Water Supplies, Procedures For Issuing Loans From The Public Water Supply Loan Program; 35 Ill. Adm. Code 662 and 663.

1) Rulemaking:

- A) Description: The Agency has issued tax-exempt bonds to increase funding for the Public Water Supply Loan Program. The Agency will review Parts 662 and 663 to determine how these parts may be amended to accommodate future leveraging of the program.
- B) Statutory authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/14 through 5/19].

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- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: These rules apply only to public entities, such as municipalities, sanitary districts, etc. The amendments will clarify the requirements of the Public Water Supply Loan Program that relate to the issuance of tax-exempt bonds.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
- G) Related rulemaking and other pertinent information: None
- m) Part (Headings and Code Citations): Illinois Environmental Protection Agency Public Water Supplies, Permit Fees For Installing or Extending Water Main; 35 Ill. Adm. Code 690.
- 1) Rulemaking:
- A) Description: In June 2003, the Governor signed into law P.A. 93-0032, which established a new fee structure for installing and extending water mains. The amendments to this rule will formally incorporate the new fee. The collection of fees in the amendments reflect the increases mandated by the new law for construction permits, emergency construction permits, or as-built plans to install or extend water mains.
- B) Statutory authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/14 through 5/19].

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- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: These amendments will affect small businesses, small municipalities, and not-for-profit entities to the extent that these entities design, operate, or maintain a public water supply, or engage in the permitting process. The Agency anticipates that the amendments will generally benefit these entities by clarifying the requirements for facility operations and permits. The amendments do not impose additional reporting requirements.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
- G) Related rulemaking and other pertinent information: None.
- n) Part (Heading and Code Citation): Annual Testing Fees for Analytical Services; 35 Ill. Adm. Code 691.
- 1) Rulemaking:
- A) Description: This rulemaking will update a citation in Section 691.102.
- B) Statutory authority: Implementing and authorized by Section 17.7 of the Environmental Protection Act [415 ILCS 5/17.7].
- C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.

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- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: None.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544
- G) Related rulemakings and other pertinent information: None.
- o) Part (Heading and Code Citation): Measurement Procedures for the Enforcement of 35 Ill. Adm. Code 900 & 901; 35 Ill. Adm. Code 951.
- 1) Rulemaking:
- A) Description: Proposed repeal of Part 951. The sound measurement procedures set forth in 35 Ill. Adm. Code 951 are obsolete, are no longer used, and the Illinois Pollution Control Board ("Board") has amended its noise pollution rules at 35 Ill. Adm. Code 901 and 910 to update the standards and procedures that must be followed when measuring sound.
- B) Statutory authority: Sections 25 and 27 of the Environmental Protection Act (415 ILCS 5/25 and 27) and 35 Ill. Adm. Code 900.103.
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meeting or hearing dates on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities and not-for-profit corporations will not be affected by the proposal.

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stephanie Flowers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-5544

- G) Related Rulemaking and other pertinent information: The Agency is planning to repeal 35 Ill. Adm. Code Part 952 concurrently with Part 951.

- p) Part (Heading and Code Citation): Measurement Procedures for the Enforcement of 35 Ill. Adm. Code 902; 35 Ill. Adm. Code 952.

1) Rulemaking:

- A) Description: Proposed repeal of Part 952. The sound measurement procedures set forth in 35 Ill. Adm. Code 952 are obsolete, are no longer used, and the Illinois Pollution Control Board ("Board") has amended its noise pollution rules at 35 Ill. Adm. Code 901 and 910 to update the standards and procedures that must be followed when measuring sound
- B) Statutory authority: Sections 25 and 27 of the Environmental Protection Act (415 ILCS 5/25 and 27) and 35 Ill. Adm. Code 900.103.
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meeting or hearing dates on this proposal.
- D) Date Agency anticipates First Notice, if known: Spring 2007.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities and not-for-profit corporations will not be affected by the proposal.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stephanie Fbwers

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2007 REGULATORY AGENDA

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-5544

- G) Related Rulemaking and other pertinent information: The Agency is planning to repeal 35 Ill. Adm. Code Part 951 concurrently with Part 952.
- q) Part (Heading and Code Citation): Procedures for Operation of the Potentially Infectious Medical Waste Transporter Fee System; 35 Ill. Adm. Code 1450.
- 1) Rulemaking:
- A) Description: The proposed amendments remove the reference to a specific fee amount in Section 1450.300 and replace with a generic reference to the fee required by Section 56.6(a) of the Act to avoid updates whenever fee amounts change. Also, at Sections 1450.202 and 1450.301, the address for payment has been updated.
- B) Statutory authority: Implementing and authorized by Section 56.6 of the Act.
- C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007.
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that pay fees pursuant to Section 56.6 of the Act.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stephanie Flowers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276

ENVIRONMENTAL PROTECTION AGENCY

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Springfield, IL 62794-9276
217-782-5544

- G) Related Rulemaking and other pertinent information: This rulemaking is related to several other rulemakings listed in this Regulatory Agenda that are being developed to update and address changes to the rules regarding Agency permit fees.
- r) Part (Heading and Code Citation): Access to Public Records of the Illinois Environmental Protection Agency; 2 Ill. Adm. Code 1828.
- 1) Rulemaking:
- A) Description: The Agency is preparing a rulemaking to amend its access to public records regulations to reflect changes made to the Freedom of Information Act [5 ILCS 140] and to update Illinois EPA procedures in receiving and processing Freedom of Information Act requests.
- B) Statutory authority: Authorized by Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities, or not-for-profit corporation: There may be an effect on any small business, small municipality, or not-for-profit corporation that engages in making a Freedom of Information Act request.
- E) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Annet Godiksen
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

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- G) Related Rulemaking and other pertinent information: None
- s) Part (Heading and Code Citation): Procedures For Issuing Loans From The Water Pollution Control Program for Non-Point Pollution Control Projects; New Part.
- 1) Rulemaking:
- A) Description: This rulemaking will create procedures for eligible local government units, other governmental entities, non-governmental entities or any combination thereof, to obtain loans from the Water Pollution Control Loan Program for projects to control non-point sources of pollution.
- B) Statutory authority: The proposed rules implement Title IV-A: Water Pollution Control of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 5/19.8].
- C) Scheduled meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These rules will benefit these entities by creating procedures to enable these and other entities to obtain loans from the Water Pollution Control Loan Program for projects to control non-point sources of pollution.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544
- G) Related rulemaking and other pertinent information: None

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- t) Part (Heading and Code Citation): Procedures for the Agency's expedited review of RCRA corrective action plans and reports; New Part.
- 1) Rulemaking:
- A) Description: The proposed new rule will set forth the procedures the Agency will use to perform an expedited review of RCRA corrective action plans and reports.
- B) Statutory authority: Authorized by Section 22.3a of the Environmental Protection Act [415 ILCS 5/22.3a]
- C) Scheduled meeting/hearings dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: None known.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Kim Geving
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544
- G) Related rulemakings and other pertinent information: None
- u) Part (Heading and Code Citation): Permit Fees for National Pollutant Discharge Elimination System Permits and Domestic Sewage Sludge Generator or User Permits; New Part.
- 1) Rulemaking:

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- A) Description: This rulemaking will set forth the procedures the Agency will use to collect fees under Section 12.5 of the Environmental Protection Act [415 ILCS 5/12.5].
- B) Statutory authority: Implementing and authorized by Section 12.5 of the Environmental Protection Act [415 ILCS 5/12.5].
- C) Schedule meeting/hearing date: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality, or not-for-profit corporation that is required to obtain a National Pollutant Discharge Elimination System [NPDES] permit or sludge generator or user permit from the Agency may be impacted by this rulemaking.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Deborah J. Williams
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544
- G) Related rulemakings and other pertinent information: This rulemaking is related to several other rulemakings listed in this Regulatory Agenda that are being developed to update or add new Parts to address changes and additions made to the permit fees charged by the Agency's Bureau of Water.

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- a) Part (Heading and Code Citation): Practice in Administrative Hearings (89 Ill. Adm. Code 104)
- 1) Rulemaking:
- A) Description: A new rule will be proposed that will permit the Department to seek termination from the Medical Assistance Program those vendors who are convicted of murder or a Class X felony.
- A new rule is planned to propose expansion of the length of termination of Medicaid vendors for health care fraud convictions.
- The Department may propose an amendment to the definition of “Estate” relating to long term care insurance coverage under the Long Term Care Partnership.
- B) Statutory Authority: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25(D) and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25(D) and 12-13].
- C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor

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G) Related rulemakings and other pertinent information: Noneb) Part (Heading and Code Citation): Medical Assistance Programs (89 Ill. Adm. Code 120)1) Rulemaking:

- A) Description: Proposed amendments are planned to provide policy changes that comply with federal law concerning transfers of assets and the treatment of assets at initial eligibility. A new rule is also planned on the treatment of annuities. The Department may propose rules or amendments in conjunction with other State agency partners, including Insurance, DHS-DRS and Aging, regarding eligibility under the Long Term Care Partnership relating to long term care insurance coverage. These changes would be to implement recent federal changes under the Deficit Reduction Act.

A new rule will be promulgated to implement a pre-pay spenddown program in Illinois. Currently the only way for a client to meet spenddown is to provide copies of medical bills or receipts to an eligibility worker. Under the planned rule, a client will also be able to meet his or her spenddown by sending a payment to the Department. This will allow persons to meet spenddown and have medical coverage before the start of the month.

A new rule will be promulgated to implement PA 94-1043. This law establishes eligibility for medical assistance for Illinois residents who have asylum petitions pending with the U.S. government or who are receiving treatment for torture at a federally funded torture treatment center.

The Department will propose amendments to the Home and Community Based Services Waiver for Medically Fragile, Technology Dependent Disabled Persons Under age 21, to reflect the requirement of an individual assessment of medical needs be used in the determination of eligibility and medical appropriateness for the waiver and to determine the level of care necessary to maintain a child in the home if determined eligible for the

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waiver. These changes will reflect those made in the renewal of the waiver.

- B) Statutory Authority: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and Public Act 94-1043.
- C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 557-7157
- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Childrens Health Insurance Program (89 Ill. Adm. 125)
- 1) Rulemaking:
- A) Description: The Department will propose minor modifications to the rule governing the former KidCare Program under CHIPA to make it

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consistent with the rule at Ill. Adm. Code 123 that implements the All Kids Covered Health Insurance Program Act.

- B) Statutory Authority: Implementing and authorized by 215 ILCS 106.
 - C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
 - D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
 - E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
 - F) Agency contact person for information:
Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 557-7157
 - G) Related rulemakings and other pertinent information: Rules promulgated at 89 Ill. Adm. Code 123.
- d) Part (Heading and Code Citation): Medical Payment (89 Ill. Adm. Code 140)
- 1) Rulemaking:
 - A) Description: Upon awarding of the contract pursuant to the NETSPAP Request for Proposal, Reference Number 2008-29-001, the Department will be making changes to applicable rules, including, but not limited to, Section 140.490 Medical Transportation.

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An amendment is planned to provide that an entity that has been terminated, suspended, or barred by the Department may not, while such sanction remains in effect, serve as a billing agent of a vendor.

A new rule will be proposed to permit the Department to seek termination from the Medical Assistance Program those vendors who are convicted of murder or a Class X felony.

Another new rule will permit the Department to temporarily withhold Medicaid payments to a vendor upon receipt of reliable evidence that the circumstances giving rise to the need for the withholding may involve fraud or willful misrepresentation.

New provisions will describe the minimum requirements for documentation that vendor pharmacies must maintain for prescriptions received by telephone.

A new rule will be added to authorize the Department to require vendors of non-emergency transportation services to post a surety bond. The rule will establish the criteria and requirements for when a bond must be posted, as well as the value of the bond.

A new rule will allow the Department, in its discretion, to utilize available and recognized computer software programs when verifying the billed mileage for reimbursement to non-emergency transportation providers.

Clarifications will be proposed that in all cases where a vendor has previously been terminated or barred from the Medical Assistance Program, said vendor has the burden of proof at any hearing regarding his or her re-application for entry into the Program.

New provisions are planned that state the Department may, in its discretion, utilize available, recognized computer software programs (including, but not limited to, Geographic Information System programs) when verifying the billed mileage for reimbursement to non-emergency transportation providers.

A new rule will be proposed to formalize the Department's relationship with alternate payees. Other rules may be amended. The changes will require alternate payees to register with the Department; permit the

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Department to deny or cancel alternate payee registrations; permit the Department, after an opportunity for a hearing, to revoke and prohibit participation in the Medical Assistance Program of any alternate payee that has violated Department statutes or regulations; and provide that alternate payees would be jointly and severally liable with vendors for overpayments under the Medical Assistance Program.

Amendments are planned to provide that an entity that has been terminated, suspended, or barred by the Department, may not, while such sanction remains in effect, serve as a billing agent of a vendor.

Changes will be proposed regarding criminal background checks on non-emergency transportation providers. The rule will require the submission or updating of criminal background checks from non-emergency transportation providers only if requested by the Department. In addition, the changes will exempt transportation providers enrolled as privately owned autos and government agencies.

The Department will propose an expansion of the definition for the term "non-emergency transportation vendor" to include those who act as billing agents for a vendor. The definition of the term "vendor" will be revised to include those who provide goods and services to a recipient.

Several amendments will be proposed to permit the Department, in certain situations, to refuse to accept prior approval and post approval requests and cancel existing prior approvals for specific transportation vendors. Another amendment will decrease the time frame in which a non-emergency transportation vendor may request post approval for a service that requires a prior approval. This change will also permit vendors' post approval requests to be made to agents of the Department.

The Department plans to propose rulemaking to amend the current provisions on audits to allow vendors 45 days to respond to audit findings, to allow additional documentation for reaudit and to provide that only two reaudits will be conducted.

The Department plans to propose rulemaking to amend the review of home health services from 60 days to 6 months.

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The Department plans to propose rulemaking to establish the criteria and reimbursement for intensive community-based mental health services for participants over age 21.

The Department plans to propose rulemaking to allow for the reimbursement for emergency contraception without requiring a prescription. The Department also plans to make technical changes to the pharmacy rules at the same time.

- B) Statutory Authority: Section 1915(c) of the Social Security Act (42 USC 1396n(c)) (Federal Waiver Authority) and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13, the Alternative Health Care Delivery Act [210 ILCS 3/35], and the Illinois Children's Mental Health Act [305 ILCS 5/5-5.23]
- C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 557-7157
- G) Related rulemakings and other pertinent information: None

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- e) Part (Heading and Code Citation): Specialized Health Care Delivery systems (89 Ill. Adm. Code 146)
- 1) Rulemaking:
- A) Description: The Department plans revisions to the Supportive Living Program rules. The revision will include clarifications to current provisions as well as the addition of new requirements.
- B) Statutory Authority: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13 and 5/5-5.01a], Health Care Worker Background Check Act [225 ILCS 46] and the Alternative Health Care Delivery Act [210 ILCS 3/35]
- C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities, and not-for-profit corporations: The changes concerning the Supportive Living Program will have an impact on supportive living facilities as small businesses and/or not for profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 557-7157
- G) Related rulemakings and other pertinent information: None

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- f) Part (Heading and Code Citation): Reimbursement for Nursing Costs for Geriatric Facilities (89 Ill. Adm. Code 147)
- 1) Rulemaking:
- A) Description: The Department plans to propose an amendment to Table A relating to the Minimum Data Set (MDS) based reimbursement system for nursing facilities.
- B) Statutory Authority: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13]
- C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings, or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when the Notice of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities, and not-for-profit corporations: The changes concerning the Minimum Data Set (MDS) based reimbursement system will have an impact upon nursing facilities as small businesses and/or not for profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 557-7157
- G) Related rulemakings and other pertinent information: None
- g) Part (Heading and Code Citation): Hospital Services (89 Ill. Adm. Code 148)

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1) Rulemaking:

- A) Description: The Department intends to propose changes regarding Safety Net Adjustment Payments (SNAP) to increase reimbursement rates for certain qualifying hospitals. The Department intends to propose changes regarding Critical Hospital Adjustment Payments (CHAP) to increase inpatient reimbursement rates for certain qualifying hospitals.

The Department intends to propose changes regarding High Volume Payments, Long Term Care Hospital Payments, and Trauma II Payments. Each of these changes is required as a condition of the federal Centers for Medicare and Medicaid Services' approval of the Hospital Provider Assessment program.

The Department intends to propose a new Subpart E to set forth the process by which the Department shall identify hospitals that are Institutions for Mental Disease (IMDs) or that are at risk of becoming IMDs, the preventive measures to be taken to avoid classification of a hospital as an IMD, and the actions to be taken if a hospital is identified as an IMD.

The Department plans to propose rulemaking to establish criteria and reimbursement for inpatient mental health services for participants over age 21.

- B) Statutory Authority: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and the Budget Implementation Act
- C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department anticipates filing all three rule proposals in early 2007.
- E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written

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comments concerning such effects that may be submitted in response to this regulatory agenda.

- F) Agency contact person for information:
Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 557-7157
- G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Child Support Enforcement (89 Ill. Adm. Code 160)

1) Rulemaking:

- A) Description: Changes will be made to decrease the frequency of notices sent to TANF and former AFDC clients for whom the Department receives child support payments after case cancellation. This action will be taken to reduce the costs by the Department to administer the federal requirement to notify clients of payments received by the Department.

Changes will be made in 160.60 to incorporate provisions of Public Act 94-1061 to the Illinois Parentage Act so that \$10 minimum orders associated with parentage cases are not in violation of the requirement that child support guidelines are refutable. The law also ensures that all IV-D cases are handled consistently, as federal regulations require.

Section 160.60 will be amended to provide a new provision as a result of Public Act 94-0923, providing that when the court is required to order it, the obligor must reimburse the obligee for 50% of the health insurance premium, the court may decline to enter the order if it would be inappropriate to do so.

A new Section is planned to incorporate Public Act 94-0971 which authorizes the Department to compromise child support debt owed by low income non-custodial parents to the State in exchange for payment of child support to the family.

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Section 160.15 will be revised to include the annual \$25 collection fee that is required by the federal Deficit Reduction Act of 2005. This fee shall be paid to the federal government for all IV-D non-TANF cases where at least \$500 has been collected by the IV-D agency.

- B) Statutory Authority: Implementing and authorized by the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505.2], the Illinois Parentage Act of 1984 [750 ILCS 45/14], and the Illinois Public Aid Code [305 ILCS 5/10-17.12].
- C) Schedule of meeting or hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.
- D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.
- E) Effect on small businesses, small municipalities, and not-for-profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.
- F) Agency contact person for information:
Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 557-7157
- G) Related rulemakings and other pertinent information: None

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- a) Part(s) (Heading and Code Citation): Office of Inspector General Adults with Disabilities Abuse Project, 59 Ill. Adm. Code 51
- 1) Rulemaking:
- A) Description: This rulemaking will add a new section authorizing subpoena authority to compel the production of documents and witnesses for the Domestic Abuse Program. Amendments are also necessary so that a person making a report of alleged abuse, neglect or financial exploitation who is acting in their professional capacity may be entitled to oral information about the finding of the investigative assessment and any subsequent referrals as authorized by the Inspector General. The victim and/or guardian shall be informed about the possible release of information and shall be afforded the opportunity to refuse consent to the release of that information.
- B) Statutory Authority: Implementing and authorized by the Abuse of Adults with Disabilities Intervention Act [20 ILCS 2435].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: May, 2007
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None

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- b) Part(s) (Heading and Code Citation): Medicaid Home and Community-Based Services Waiver Program for Individuals with Developmental Disabilities, 59 Ill. Adm. Code 120
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to include children's programs as part of the submission of new Medicaid Waiver applications.
- B) Statutory Authority: Implementing Section 3 of the Community Services Act [405 ILCS 30/3] and Sections 5-1 through 5-11 of the Public Aid Code [305 ILCS 5/5-1 through 5-11] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: June, 2007
- E) Effect on small business, small municipalities or not for profit corporations: Yes, this rulemaking will have an effect on small businesses and not for profit corporations that provide Medicaid Waiver services.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citation): Family Planning Services Code, 77 Ill. Adm. Code 635
- 1) Rulemaking:

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- A) Description: This rulemaking will align the Rule with federal Title X guidelines and current medical practices.
- B) Statutory Authority: Implementing and authorized by Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: March, 2007
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): WIC Vendor Management Code, 77 Ill. Adm. Code 672
- 1) Rulemaking:
- A) Description: This rulemaking will add recent changes in Federal Regulations. Amendments will also be made to provide notification of an initial incidence or occurrence of a violation of the WIC Program rules and will include non-appealable actions that WIC Vendors or WIC Vendor Applicants are notified of when entering the program.

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- B) Statutory Authority: Implementing and authorized by the WIC Vendor Management Act [410 ILCS 255].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: February, 2007
- E) Effect on small business, small municipalities or not for profit corporations: Yes, this proposed rulemaking will affect small businesses that provide WIC services.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: 7 CFR Part 246
- e) Part(s) (Heading and Code Citation): Electronic Prescription Monitoring Program, 77 Ill. Adm. Code 2080
- 1) Rulemaking:
- A) Description: This rulemaking will expand the Electronic Prescription Monitoring Program.
- B) Statutory Authority: Implementing and authorized by Sections 316, 317, 318, 319 and 320 of Article III of the Illinois Controlled Substances Act [720 ILCS 570/316, 317, 318, 319 and 320].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].

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- D) Date agency anticipates First Notice: June, 2007
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Child Care, 89 Ill. Adm. Code 50
- 1) Rulemaking:
- A) Description: This rulemaking will increase the income eligibility guidelines for child care to 50% of the 2008 State Median Income for each family size.
- B) Statutory Authority: Implementing and authorized by P. A. 93-0361.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: March, 2007
- E) Effect on small business, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses that provide child care services.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief

DEPARTMENT OF HUMAN SERVICES

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Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Child Care, 89 Ill. Adm. Code 50

1) Rulemaking:

- A) Description: This rulemaking will reduce the work requirement for full-time students enrolled in the Non-TANF Education and Training Program and limit participation in post-secondary education to 60 non-consecutive months total for those not working at all.
- B) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: March, 2007
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

DEPARTMENT OF HUMAN SERVICES

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G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Child Care, 89 Ill. Adm. Code 50

1) Rulemaking:

A) Description: This rulemaking will clarify and strengthen self-employment language and include rules for those who are working at home.

B) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].

C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: June, 2007

E) Effect on small business, small municipalities or not for profit corporations: Yes, this proposed rulemaking will affect small businesses that provide child care services.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citation): Child Care, 89 Ill. Adm. Code 50

1) Rulemaking:

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- A) Description: This rulemaking will establish sanctions for parents who commit program violations that result in overpayment and who make no attempt to repay.
- B) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: June, 2007
- E) Effect on small business, small municipalities or not for profit corporations: This proposed rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- j) Part(s) (Heading and Code Citation): Child Care, 89 Ill. Adm. Code 50
- 1) Rulemaking:
- A) Description: This rulemaking will establish certification requirements for license-exempt providers by requiring them to submit a copy of their government issued photo ID and a copy of their social security card.
- B) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].

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- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: January, 2007
- E) Effect on small business, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses that provide child care services.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- k) Part(s) (Heading and Code Citation): Child Care, 89 Ill. Adm. Code 50
- 1) Rulemaking:
- A) Description: This rulemaking will establish a tiered reimbursement system for licensed day care home providers who achieve and attain progressively higher quality standards.
- B) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: February, 2007

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- E) Effect on small business, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses that provide child care services.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: Pursuant to an agreement negotiated between the State of Illinois and SEIU Local 880, quality incentives are scheduled to go into effect on July 1, 2007.
- l) Part(s) (Heading and Code Citation): Temporary Assistance for Needy Families, 89 Ill. Adm. Code 112
- 1) Rulemaking:
- A) Description: This rulemaking will implement the Assets for Independence (AFI) Program. The AFI Program will allow eligible low-income Illinois citizens subject to the availability of State and federal funds and authorization from DHS, to open and maintain an Individual Development Account (IDA) at a federally insured financial institution. IDAs are matched savings accounts designed to help low-income and low-wealth families accumulate savings accounts to purchase a first home, start a small business or continue their education.
- B) Statutory Authority: Implementing and authorized by P. L. 105-285 and Section 12-4.103a of the Illinois Public Aid Code [305 ILCS 5/12-4.103a].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: January, 2007

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- E) Effect on small business, small municipalities or not for profit corporations: This proposed rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- m) Part(s) (Heading and Code Citation): Temporary Assistance for Needy Families, 89 Ill. Adm. Code 112
- 1) Rulemaking:
- A) Description: Rule changes are anticipated as a result of federal TANF reauthorization. Every state was required to submit a Work Verification Plan by October 1, 2006, that is being reviewed and must be approved by the federal Administration for Children and Families. The specific rule changes will not be known until DHS finds out whether or not our Plan has been approved.
- B) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. IV and 12-13] and the Deficit Reduction Act of 2005.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: June, 2007

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- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- n) Part(s) (Heading and Code Citation): Aid to the Aged, Blind or Disabled, 89 Ill. Adm. Code 113
- 1) Rulemaking:
- A) Description: This rulemaking will increase the Grant Adjustment Allowance to pass along the 2007 COLA SSI increase.
- B) Statutory Authority: Implementing and authorized by 20 CFR 416.2096.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: February, 2007
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East

DEPARTMENT OF HUMAN SERVICES

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Springfield, Illinois 62762
(217) 785-9772

- G) Related rulemakings and other pertinent information: None
- o) Part(s) (Heading and Code Citation): Aid to the Aged, Blind or Disabled, 89 Ill. Adm. Code 113
- 1) Rulemaking:
- A) Description: This rulemaking will increase the sheltered care/personal or nursing rates as a result of the 2007 SSI COLA increase.
- B) Statutory Authority: 20 CFR 416.2096.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: February, 2007
- E) Effect on small business, small municipalities or not for profit corporations: Yes, this rulemaking will have an effect on small businesses that provide sheltered care.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- p) Part(s) (Heading and Code Citation): Early Intervention, 89 Ill. Adm. Code 500
- 1) Rulemaking:

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- A) Description: This rulemaking will incorporate changes to the credentialing requirements. There may also be other amendments as identified by Legal staff working with the program.
- B) Statutory Authority: Implementing and authorized by the Early Intervention Services System Act [325 ILCS 20] and Part C of the Individuals with Disabilities Education Act (IDEA) (20 USC 1400 et seq., as amended in 1997).
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: February, 2007
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not effect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- q) Part(s) (Heading and Code Citation): Partner Abuse Intervention, 89 Ill. Adm. Code 501
- 1) Rulemaking:
- A) Description: This rulemaking will replace outdated language that does not meet the needs of current services.
- B) Statutory Authority: Implementing the Domestic Violence Act [750 ILCS 60].

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- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: March, 2007
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will not affect small business or not for profit corporations.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- r) Part(s) (Heading and Code Citation): Services, 89 Ill. Adm. Code 590
- 1) Rulemaking:
- A) Description: This rulemaking will add a Section for the rules of the Supported Employment Services Program.
- B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: May, 2007

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- E) Effect on small business, small municipalities or not for profit corporations: Yes. These rules will pertain to the self-employment program for individuals who wish to establish their own business. Due to limited resources, the Division has limited the amount of funding that is being available for these proposals.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- s) Part(s) (Heading and Code Citation): Vending Facility Program for the Blind, 89 Ill. Adm. Code 650
- 1) Rulemaking:
- A) Description: This rulemaking will change language to reference the evolution of the Vending Facility Program for the Blind that has changed significantly since the rule's last amendment.
- B) Statutory Authority: Implementing the Randolph-Sheppard Vending Stand Act (20 USC 107) and authorized by the Blind Persons Operating Vending Facilities Act [20 ILCS 2420].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedures Act [5 ILCS 100].
- D) Date agency anticipates First Notice: May, 2007
- E) Effect on small business, small municipalities or not for profit corporations: Yes, the proposed changes will affect the BEPB Vending Managers Program. The rules will streamline and improve overall functions in the performance of job duties by staff, the training and

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assignment of candidates, and the overall operations and management of locations.

- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None

PROPERTY TAX APPEAL BOARD

JANUARY 2007 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Practice and Procedure for Hearings Before the Property Tax Appeal Board, 86 Ill. Adm. Code 1910.
- 1) Rulemaking:
- A) Description: The Property Tax Appeal Board does not anticipate the filing of any proposed rule changes at this time.
- B) Statutory Authority: 35 ILCS 200/Art.7 and 35 ILCS 200/16-160 through 16-195
- C) Scheduled meeting/hearing date: There are no proposed scheduled dates for meetings/hearings at this time.
- D) Date agency anticipates First Notice: None anticipated at this time.
- E) Effect on small business, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Chief Hearing Officer
Steven M. Waggoner
Property Tax Appeal Board
Stratton Office Bldg., Rm. 401
401 S. Spring Street
Springfield, IL 62706
217/782-6076
- G) Related rulemaking and other pertinent information: None

DEPARTMENT OF PUBLIC HEALTH

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- a) Part: Hospital Licensing Requirements (77 Ill. Adm. Code 250)
- 1) Rulemaking:
- A) Description: The proposed amendments will implement Public Act 93-0041, which amended the Hospital Licensing Act [210 ILCS 85] regarding plan review and fees, waivers, informal dispute resolution, findings, and quality improvement.
- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates: Hospital Licensing Board, May 2007
- D) Date agency anticipates First Notice: Summer 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
- G) Related rulemakings and other pertinent information: None
- b) Part: Hospital Licensing Requirements (77 Ill. Adm. Code 250)
- 1) Rulemaking:
- A) Description: The rules will be amended to update language regulating infant identification.
- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates: Hospital Licensing Board, February 2007

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- D) Date agency anticipates First Notice: Spring 2007
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
 - F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)
 - G) Related rulemakings and other pertinent information: None
- c) Part: Hospital Licensing Requirements (77 Ill. Adm. Code 250)
- 1) Rulemaking:
 - A) Description: These rules will implement Public Act 92-356, which amended the Hospital Licensing Act [210 ILCS 85] to require hospitals to develop policies implementing physician-ordered "do-not-resuscitate" orders, and required hospitals and long-term care facilities to honor the Department of Public Health's Uniform DNR Order Form in their "do-not-resuscitate" policies.
 - B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
 - C) Scheduled meeting/hearing dates: Hospital Licensing Board, May 2007
 - D) Date agency anticipates First Notice: Summer 2007
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
 - F) Agency contact person for information:

DEPARTMENT OF PUBLIC HEALTH

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Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)

- G) Related rulemakings and other pertinent information: None
- d) Part: Hospital Licensing Requirements (77 Ill. Adm. Code 250)
- 1) Rulemaking:
- A) Description: The proposed amendments will amend Section 250.330 (Orders for Medications and Treatments) to allow the administration of influenza and pneumococcal vaccines without a written order from the medical staff.
- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates: Hospital Licensing Board, February 2007.
- D) Date agency anticipates First Notice: Spring 2007.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)
- G) Related rulemakings and other pertinent information: None

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e) Part: Hospital Licensing Requirements (77 Ill. Adm. Code 250)1) Rulemaking:

- A) Description: The proposed amendments will implement Public Act 93-829, which authorizes hospitals to grant emergency disaster privileges to health care professionals, when an emergency management plan has been activated and a hospital is unable to meet patients' immediate needs, without first requesting information from the Department of Financial and Professional Regulation.
- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates: Hospital Licensing Board, November 2006.
- D) Date agency anticipates First Notice: Winter 2007.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)
- G) Related rulemakings and other pertinent information: See (g)

f) Part: Hospital Licensing Requirements (77 Ill. Adm. Code 250)1) Rulemaking:

- A) Description: The proposed amendments will implement Public Act 94-0915, which amended the Hospital Licensing Act [210 ILCS 85] to require

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a circulating nurse to be present in the operating room during all invasive operative procedures.

- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates: Hospital Licensing Board, May, 2007
- D) Date agency anticipates First Notice: Summer 2007.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect hospitals that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)
- G) Related rulemakings and other pertinent information: See (h)

g) Part: Health Care Professional Credentials Data Collection Code (77 Ill. Adm. Code 965)

- 1) Rulemaking:
 - A) Description: The proposed amendments clarify that nothing in the Health Care Professionals Data Collection Act [410 ILCS 517] or Part 965 prohibits hospitals from granting disaster privileges under the appropriate conditions.
 - B) Statutory Authority: Health Care Professionals Data Collection Act [410 ILCS 517]
 - C) Scheduled meeting/hearing dates: State Board of Health, December 2006.
 - D) Date agency anticipates First Notice: Winter 2007.

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)
- G) Related rulemakings and other pertinent information: See (e)
- h) Part: Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)
- 1) Rulemaking:
- A) Description: The proposed amendments will implement Public Act 94-0915, which amended the Ambulatory Surgical Treatment Center Act [210 ILCS 5] to require a circulating nurse to be present in the operating room during all invasive operative procedures.
- B) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- C) Scheduled meeting/hearing dates: ASTC Licensing Board, March 2007
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect ASTCs that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.

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Springfield, Illinois 62761
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(e-mail: rules@idph.state.il.us)

- G) Related rulemakings and other pertinent information: See (f)
- i) Part: Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)
- 1) Rulemaking:
- A) Description: The proposed amendments will implement Public Act 94-0861, which amended the Ambulatory Surgical Treatment Center Act [210 ILCS 5] by adding a new section regulating nurse administration of limited levels of sedation or analgesia.
- B) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- C) Scheduled meeting/hearing dates: ASTC Licensing Board, March 2007
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect ASTCs that are small businesses and not-for-profit corporations.
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)
- G) Related rulemakings and other pertinent information: None
- j) Part: Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)

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- 1) Rulemaking:
 - A) Description: The proposed amendments will increase the license fees for assisted living establishments to \$1,000 from \$300 (plus \$10 per licensed unit, up from \$5) and the fee for shared housing establishments to \$500 from \$150.
 - B) Statutory Authority: Assisted Living and Shared Housing Act [210 ILCS 9]
 - C) Scheduled meeting/hearing dates: Assisted Living and Shared Housing Advisory Board, February 2007.
 - D) Date agency anticipates First Notice: Spring 2007.
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect assisted living and shared housing establishments that are small businesses and not-for-profit corporations.
 - F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)
 - G) Related rulemakings and other pertinent information: None
- k) Part: Illinois Home Health Agency Code (77 Ill. Adm. Code 245)
 - 1) Rulemaking:
 - A) Description: The amendments will implement Public Act 94-0379, which added extensive amendments to the Home Health Agency Licensing Act [210 ILCS 55], including changing the name of the Act to the Home Health, Home Services, and Home Nursing Agency Licensing Act and adding new licensure categories.

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- B) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
 - C) Scheduled meeting/hearing dates: March 2007 State Board of Health
 - D) Date agency anticipates First Notice: Spring 2007
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments may affect home health, home services, and home nursing agencies that are small businesses and not-for-profit corporations.
 - F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St.
Springfield, Illinois 62761
217-782-2043
(e-mail: rules@idph.state.il.us)
 - G) Related rulemakings and other pertinent information: None
- l) Part: Illinois Formulary for the Drug Product Selection Program (77 Ill. Adm. Code 790)
- 1) Rulemaking
 - A) Description: This rulemaking will repeal the references to the Illinois Formulary for the Drug Product Selection in 77 Ill. Code 790 in accordance with amendments to the Illinois Food, Drug and Cosmetic Act [410 ILCS 620/2.22 and 620/3.14] and Pharmacy Practice Act of 1987 [225 ILCS 85/25].
 - B) Statutory Authority: Sections 2.22 and 3.14 of the Illinois Food, Drug and Cosmetic Act [410 ILCS 620/2.22 and 620/3.14] and Section 25 of the Pharmacy Practice Act of 1987 [225 ILCS 85/25]
 - C) Schedule of meeting/hearing dates: These amendments will be reviewed by the State Board of Health.

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- D) Date agency anticipates First Notice: June 2007
- E) Effect on small businesses, small municipalities or not for-profit corporations: These amendments will provide for the immediate inclusion of additional generic drug products in the Illinois Formulary, available for Illinois pharmacists' prescription interchange.
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson Street, Fifth Floor
Springfield, IL 62761-0001
217-782-2043
(e-mail: rules@idph.state.il.us)
- G) Related rulemakings and other pertinent information: None
- m) Part: Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois (77 Ill. Adm. Code 855)
- 1) Rulemaking
- A) Description: This rulemaking will revise the rules governing asbestos abatement activities in public and private schools and commercial and public buildings in Illinois. Proposed changes to the rules include:
- 1) clarification of incorporated materials to eliminate specific areas of inconsistency and to update referenced documents;
 - 2) addition of definitions for "demolition," "incidental breakage" and other terms associated with non-friable floor tile removal;
 - 3) increased licensing fees for workers and professionals;
 - 4) clarification of notification requirements and procedures and clearance air sampling procedures for abatement of asbestos in commercial and public buildings;

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- 5) addition of whole floor tile removal procedures for commercial and public buildings and schools;
 - 6) provision of standards for floor tile supervisor and worker training.
- B) Statutory Authority: Section 6(b)(i)(2)(d) of the Asbestos Abatement Act [105 ILCS 105] and the Commercial and Public Building Asbestos Abatement Act [225 ILCS 207]
- C) Schedule of meeting/hearing dates: These amendments will be reviewed by the State Board of Health. Public Hearings will be scheduled during the first notice period for this rulemaking.
- D) Date agency anticipates First Notice: April 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
- F) Agency contact person for information:
Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson Street, Fifth Floor
Springfield, IL 62761-0001
217-782-2043
(e-mail: rules@idph.state.il.us)
- G) Related rulemakings and other pertinent information: None
- n) Part: Lead Poisoning Prevention Code (77 Ill. Adm. Code 845)
- 1) Rulemaking
 - A) Description: The existing rules set forth the requirements for approving training providers and licensing persons who conduct lead abatement and mitigation activities in dwellings and child care facilities. Additionally, the regulations cite the minimum work practices to be used when conducting lead investigations and remediation services to protect the

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public from associated hazards of lead exposure. This rulemaking involves a number of revisions to the lead poisoning prevention rules.

- B) Statutory Authority: Sections 11.1, 11.2, 13 and 14 of the Illinois Lead Poisoning Prevention Act [410 ILCS 45]
 - C) Schedule of meeting/hearing dates: Amendments were reviewed and approved by the State Board of Health on March 11, 2004.
 - D) Date agency anticipates First Notice: January 2007
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
 - F) Agency contact person for information:
Susan Meister
Division of Legal Services
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 - G) Related rulemakings and other pertinent information: None
- o) Part: Continuation of Health Insurance (CHIC) Program (77 Ill. Adm. Code 845)
- 1) Rulemaking
 - A) Description: On August 7, 2001, Public Act 92-0275 (the Act) amended Section 10 of the Communicable Disease Prevention Act by adding Section 2d, which provides that the Illinois Department of Public Health may pay for health insurance coverage with funds appropriated for this purpose on behalf of persons who are infected with the human immunodeficiency virus (HIV) and are eligible for "continuation coverage" as provided by the federal consolidated Omnibus Budget Reconciliation Act of 1985 or group health insurance policies. The Act requires the Department to adopt rules establishing income eligibility requirements for participation in this health insurance continuation

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program and to administer this program in accordance with the requirements of the federal Ryan White Comprehensive AIDS Resource Emergency Act of 1990.

- B) Statutory Authority: Section 2d of the Communicable Disease Prevention Act [410 ILCS 315/2d]
 - C) Schedule of meeting/hearing dates: These amendments will be reviewed by the State Board of Health. Public Hearings will be scheduled during the first notice period for this rulemaking.
 - D) Date agency anticipates First Notice: March 2007
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
 - F) Agency contact person for information:
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 - G) Related rulemakings and other pertinent information: None
- p) Part: Illinois Water Well Pump Installation Code (415 ILCS 35)
- 1) Rulemaking
 - A) Description: The amendments will specify the documentation required to verify that an applicant for a license has the required experience installing water wells and water well pumps. The passing grade on an examination will be changed to not less than 70 in each part of the examination, rather than an average grade of 75 for both parts of each examination. The rulemaking will increase, from four weeks to 120 days, the time period during which requests for continuing education sessions must be submitted to the Department before any training session is presented. The

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time frame in which the Department must be notified in advance by those conducting required continuing education sessions will be specified. The rulemaking will also establish requirements for approving continuing education topics.

- B) Statutory Authority: Sections 1.5 and 7 of the Illinois Water Well and Pump Installation Contractor's License Act [225 ILCS 345]
 - C) Schedule of meeting/hearing dates: Amendments were reviewed and approved by the State Board of Health on May 18, 2006.
 - D) Date agency anticipates First Notice: January 2007
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
 - F) Agency contact person for information:
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 - G) Related rulemakings and other pertinent information: None
- q) Part: Private Sewage Disposal Code (77 Ill. Adm. Code 905)
- 1) Rulemaking
 - A) Description: The existing statute sets forth requirements for maintaining and servicing private sewage disposal systems installed in Illinois. The proposed regulations will clarify the legislative mandate in rule form and establish how and when maintenance requirements are to be met. Furthermore, the proposed rulemaking will clarify the site requirements necessary to install various types of approved private sewage disposal systems.

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- B) Statutory Authority: Sections 2 and 7 of the Illinois Private Sewage Disposal Licensing Act [225 ILCS 225]
 - C) Schedule of meeting/hearing dates: Amendments were reviewed and approved by the Private Sewage Advisory Board in fall 2005.
 - D) Date agency anticipates First Notice: January 2007
 - E) Effect on small businesses, small municipalities or not for profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
 - F) Agency contact person for information:
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 - G) Related rulemakings and other pertinent information: None
- r) Part: Structural Pest Control Code (77 Ill. Adm. Code 830)
- 1) Rulemaking
 - A) Description: Existing rules require pest control technicians to obtain seven hours of training during the three years covered by their certifications. Public Act 93-0922, effective January 1, 2005, amended the Structural Pest Control Act to require certified technicians to accumulate nine classroom hours instead of seven and also stipulates that the hours may be obtained in increments of three hours or more. The proposed amendments will bring the Code into compliance with the Act.
 - B) Statutory Authority: Section 10 of the Structural Pest Control Act [225 ILCS 235]

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- C) Schedule of meeting/hearing dates: These amendments will be reviewed by the State Board of Health. Public Hearings will be scheduled during the first notice period for this rulemaking.
- D) Date agency anticipates First Notice: March 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- s) Part: Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820)
- 1) Rulemaking
- A) Description: The proposed revisions are required to comply with statutory mandates established in 2001 to regulate design, construction and operation of spas, as defined as a swimming facility. Additionally, revisions to the Code will clarify several Sections to provide consistency with industry standards for pool design, construction, and operation.
- B) Statutory Authority: Sections 2 and 13 of the Illinois Swimming Facility Act [210 ILCS 125]
- C) Schedule of meeting/hearing dates: These amendments will be reviewed by the State Board of Health. Public Hearings will be scheduled during the first notice period for this rulemaking.
- D) Date agency anticipates First Notice: April 2007

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- t) Part: Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
- 1) Rulemaking
- A) Description: The amendments will clarify the requirements for grouting drilled wells; establish the minimum time to grout a well following the removal of the drill rig from the drill site; establish requirements for bored well construction materials; clarify the notification requirement for sealing abandoned wells; and clarify the setback requirements between closed-loop wells, water wells, and sources of contamination.
- B) Statutory Authority: Sections 2 and 5 of the Illinois Water Well Construction Code Act [415 ILCS 30]
- C) Schedule of meeting/hearing dates: These amendments will be reviewed by the State Board of Health. Public Hearings will be scheduled during the first notice period for this rulemaking.
- D) Date agency anticipates First Notice: March 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed changes are anticipated to have minimum impact on the regulated industry.
- F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

u) Part: 77 Ill. Adm. Code 1100 – Narrative and Planning Policies

1) Rulemaking:

- A) Description: The rules will be reviewed and revised to: update language to coincide with revisions to the Health Facilities Planning Act; update standards to reflect changes in the healthcare industry; and eliminate redundancy in requirements and language.
- B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]
- C) Scheduled meeting/hearing dates: Health Facilities Planning Board Meetings- May 1, 2007 and May 2, 2007; and June 12, 2007 and June 13, 2007.
- D) Date agency anticipates First Notice: Series of First Notices starting in May 2007 and ending in August 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed revisions to the Certificate of Need rules will provide a more concise and better organized review process that is in step with the evolving health care industry.
- F) Agency contact person for information:
Claire Burman
Coordinator, Rules Development
Illinois Health Facilities Planning Board
James R. Thompson Center, 100 W. Randolph Street, 6th Floor,
Chicago, Illinois

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2007 REGULATORY AGENDA

(312) 814-2565

G) Related rulemakings and other pertinent information: Nonev) Part: Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)1) Rulemaking:

- A) Description: The rules will be reviewed and revised to: update language to coincide with revisions to the Health Facilities Planning Act; update standards to reflect changes in the healthcare industry; and eliminate redundancy in requirements and language.
- B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]
- C) Scheduled meeting/hearing dates: Health Facilities Planning Board Meetings- February 21, 2007 and February 22, 2007; and March 27, 2007 and March 28, 2007.
- D) Date agency anticipates First Notice: Series of First Notices starting in February 2007 and ending in April 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed revisions to the Certificate of Need rules will provide a more concise and better organized review process that is in step with the evolving health care industry.
- F) Agency contact person for information:
Claire Burman
Coordinator, Rules Development
Illinois Health Facilities Planning Board
James R. Thompson Center, 100 W. Randolph Street, 6th Floor,
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- G) Related rulemakings and other pertinent information: None

w) Part: Economic and Fiscal Feasibility Review (77 Ill. Adm. Code 1120)

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- 1) Rulemaking:
 - A) Description: The rules will be reviewed and revised to: update language to coincide with revisions to the Health Facilities Planning Act; update standards to reflect changes in the healthcare industry; and eliminate redundancy in requirements and language.
 - B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]
 - C) Scheduled meeting/hearing dates: Health Facilities Planning Board Meetings- February 21, 2007 and February 22, 2007; and March 27, 2007 and March 28, 2007
 - D) Date agency anticipates First Notice: Series of First Notices starting in January 2007 and ending in April 2007
 - E) Effect on small businesses, small municipalities or not for profit corporations: The proposed revisions to the Certificate of Need rules will provide a more concise and better organized review process that is in step with the evolving health care industry.
 - F) Agency contact person for information:
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(312) 814-2565
 - G) Related rulemakings and other pertinent information: None
- x) Part: Nursing Education Scholarships (Ill Adm. Code 597)
 - 1) Rulemaking:
 - A) Description: This rulemaking will expand the categories of eligible nursing degrees to include masters and doctorate degrees in nursing.
 - B) Statutory Authority: Nursing Education Scholarship Act [110 ILCS 975]

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- C) Scheduled meeting/hearing dates: March 2007 meeting of the State Board of Health
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will codify amendments to the Nursing Education Scholarship Act intended to increase the number of nurse educators in the State.
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- y) Part: Podiatric Scholarship and Residency Program Code (77 Ill. Adm. Code 593)
- 1) Rulemaking:
- A) Description: This rulemaking expands the number of years that a student is eligible to receive a scholarship from two to the full four years required to complete podiatric medical school. This rulemaking will also provide for the award of a monthly living stipend to scholarship recipients and adds definitions of "rural" and "underserved".
- B) Statutory Authority: Podiatry Scholarship and Residency Act [110 ILCS 978]
- C) Scheduled meeting/hearing dates: March 2007 meeting of the State Board of Health
- D) Date agency anticipates First Notice: Spring 2007

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- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- z) Part: Family Practice Residency Code (77 Ill. Adm. Code 590)
- 1) Rulemaking:
- A) Description: This rulemaking will amend Subpart C: Medical Student Scholarships to clarify limitations on the use of scholarship funds, terms of performance, designation of shortage areas, and notification of shortage area designations.
- B) Statutory Authority: Family Practice Residency Act [110 ILCS 935]
- C) Scheduled meeting/hearing dates: March 2007 meeting of the State Board of Health
- D) Date agency anticipates First Notice: Spring 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
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G) Related rulemakings and other pertinent information: None

aa) Part: Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)

1) Rulemaking:

A) Description: This rulemaking will update the training curriculum for Trauma Nurse Specialists to meet current medical standards allowing for Department oversight (the specifics of the curriculum will no longer be listed). In addition, the testing requirements will be amended to give the Department the authority to determine how certification tests will be administered. The rulemaking amends the Section on re-testing to be consistent with the Emergency Medical Technician testing rules and reduces the number of continuing education hours. The rulemaking deletes outdated requirements from the Trauma Nurse Specialist Program Plan.

B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50/3.75]

C) Scheduled meeting/hearing dates: March 2007

D) Date agency anticipates First Notice: April 2007

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

DEPARTMENT OF PUBLIC HEALTH

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- bb) Part: Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)
- 1) Rulemaking:
- A) Description: This rulemaking will remove from the Code all references to specific testing fee amounts assessed to candidates sitting for an exam pursuant to the Emergency Medical Services (EMS) Systems and Trauma Center Act. In addition, the rulemaking will allow the Department to utilize a third party to administer Department exams.
- B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
- C) Scheduled meeting/hearing dates: March 2007
- D) Date agency anticipates First Notice: April 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: N/A
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- cc) Part: Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)
- 1) Rulemaking:
- A) Description: This rulemaking will define and address the use of reserve ambulances.
- B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

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- C) Scheduled meeting/hearing dates: December 2006
 - D) Date agency anticipates First Notice: February 2007
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency contact person for information:
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(e-mail: rules@idph.state.il.us)
 - G) Related rulemakings and other pertinent information: None
- dd) Part: Freestanding Emergency Center Demonstration Program Code (77 Ill. Adm. Code 518)
- 1) Rulemaking:
 - A) Description: This rulemaking will repeal the specific requirements of the Health Care Worker Background Check Act and instead reference the Act and the Health Care Worker Background Check Code.
 - B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50/32.5]
 - C) Scheduled meeting/hearing dates: June 2007
 - D) Date agency anticipates First Notice: July 2007
 - E) Effect on small businesses, small municipalities or not for profit corporations: None
 - F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: We will not move forward on this rulemaking until we receive notice from the Governor's Office as to whether our legislative proposal to repeal Section 32.5 of the EMS Act, which creates the Freestanding Emergency Center Demonstration Program, is approved. If we are able to move that proposal forward and it is signed into law, there will not be a need for this rulemaking.
- ee) Part: Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)
- 1) Rulemaking:
- A) Description: This rulemaking will revise most Sections of the Emergency Medical Services and Trauma Center Code to reflect current EMS practice.
- B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
- C) Scheduled meeting/hearing dates: June 2007
- D) Date agency anticipates First Notice: July 2007
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
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DEPARTMENT OF PUBLIC HEALTH

JANUARY 2007 REGULATORY AGENDA

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- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF REVENUE

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a) Part: Income Tax, 86 Ill. Adm. Code 1001) Rulemaking:

- A) Description: New rules will be added to Part 100 concerning the tax credit for Tech Prep Youth Vocational Programs (IITA Section 209); the reallocation of items under IITA Section 404; pass-through of investment credits from partnerships and Subchapter S corporations to their partners and shareholders; filing of refund claims and other collection matters, statutes of limitations, and interest computations.

Part 100 will be amended by adding rules and amending existing rules governing the computation of base income under Article 2 of the IITA and the allocation and apportionment of base income under Article 3 of the IITA.

Part 100 will be amended to update the provisions defining unitary business groups and computing the combined tax liability of unitary business groups.

Part 100 will be amended by adding rules providing guidance on the addition and subtraction modifications allowed in IITA Section 203, on the credit for residential property taxes paid in IITA Section 208, on the acceptance of substitute W-2s, rounding amounts on returns to the nearest dollar and on the issue of when a taxpayer is subject to tax in another state under IITA Section 303(f).

Part 100 will be amended by updating the provisions for credits for taxes paid to other states, innocent spouse relief, exempt income, and filing of withholding exemption certificates by employees and the handling of those certificates by employers to reflect changes in relevant laws and to address new issues.

Part 100 will be amended to provide guidance for payment of estimated taxes during short taxable years, during years in which marital status changes, and for computation of penalties for late payment of estimated taxes.

Part 100 will be amended to clarify definitions of terms in IITA Section 1501(a).

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Part 100 will be amended to implement legislation enacted in 2004, 2005, and 2006, including the tax shelter registration and disclosure provisions and penalties for noncompliance, the definition of business income, recapture of business expenses, amendments to the film production services credit statute, investment partnership provisions, amendments to the research and development credit provisions, River Edge Redevelopment zone provisions, credits for hiring veterans and ex-felons and bonus depreciation adjustments.

Finally, the Department will continue the updating and correction of Part 100.

- B) Statutory Authority: 35 ILCS 5/101 and 35 ILCS 5/1401
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 100 over the next six months. We anticipate filing rulemakings amending Part 100 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: This rulemaking will affect any business that incurs an income tax filing obligation.
- F) Agency contact person for information:

Paul Caselton
Deputy General Counsel, Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: 217/524-3951
- G) Related rulemakings and other pertinent information: None

b) Part: Property Tax, 86 Ill. Adm. Code 110

DEPARTMENT OF REVENUE

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1) Rulemaking:

- A) Description: The amendment to Section 110.113 incorporates language from a new statute (35 ILCS 200/10-360) addressing the Fraternal Organization Assessment Freeze. Most of the language contained in the new statute mirrors the language contained in the other sections (35 ILCS 200/10-350 and 10-355) of the Code that deal with the requirements of the Fraternal Organization Assessment Freeze. The amendment also accounts for a statutory change in section 10-355 of the Property Tax Code (35 ILCS 200/10-355). This statutory revision involved changing a date from July 1896 to February 1898. This change concerned the date that fraternal organizations must have been chartered in the State of Illinois and is one of the criteria used to establish their eligibility for the assessment freeze. The statutory revision had an effective date of January 3, 2003.

Another rulemaking will correct an error contained in subsection (d) of Section 110.180. The error involves changing the word "after" to "before". The original word "after" was a typographical error that has not been previously amended.

A third rulemaking concerns Section 110.140 for Board of Review Procedures and Records. The language in the section dealing with counties of less than 3,000,000 needs to be updated in order to correspond to the latest Illinois Department of Revenue forms and statutory changes.

- B) Statutory Authority: Implementing the Property Tax Code [35 ILCS 200] and authorized by Section 2505-625 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-625]
- C) Scheduled meeting/hearing dates: No schedule has been established.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 110 during the next six months of this year.

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E) Effect on small business, small municipalities or not for profit corporations: May impact some not for profit corporations that are seeking preferential property tax assessments.

F) Agency contact person for information:

Robin W. Gill
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c) Part: Rental Housing Support Program, 86 Ill. Adm. Code 121

1) Rulemaking:

A) Description: New rules will be created under Part 121 to implement the new Rental Housing Support Program.

B) Statutory Authority: 55 ILCS 5/3-5018

C) Scheduled meeting/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings creating Part 121 during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: De minimus. Small business and not for profit organizations are subject to the \$10 recording fee for real estate related documents. Units of local government are exempt under the statute.

F) Agency contact person for information:

Robin W. Gill
Associate Counsel, Property Tax
Illinois Department of Revenue

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JANUARY 2007 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

d) Part: Retailers' Occupation Tax, 86 Ill. Adm. Code 130

1) Rulemaking:

- A) Description: Amendments will be made to update the Retailers' Occupation Tax regulations to reflect new statutory developments, decisional law and Department policies. Rulemakings are also promulgated as part of the Department's continuing effort to codify policies contained in various letter rulings. Some of the highlights of these changes include:
1. Amendment of Section 130.340, governing the rolling stock exemption, in response to changes to that exemption made by Public Act 93-1033.
 2. Amendment of Section 130.605 concerning sales of property originating in Illinois to address 2 issues related to the issuance of drive-away permits: (1) Clarify that the destination of vehicles for which a drive-away permit may be issued coincides with those destinations for which the Secretary of State authorizes the issuance of drive-away permits. (2) Clarify that the exemption applies only to non-residents. Require dealers to keep copy of a valid non-resident driver's license or other evidence of being a non-resident.
 3. Amendment of Section 130.415 (transportation and delivery charges) to add examples and to clarify the requirement of a separate agreement between seller and purchaser, particularly in the case of Internet, mail order, telephone and television orders.
 4. Promulgation of a regulation explaining the taxation of seminar materials.

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5. Amendment of Section 130.2145 to explain the tax liability of hotels for room rental charges made in connection with events during which food is provided by the hotels, such as conferences and weddings.
6. Amendment of Section 130.310 governing taxation of food, drugs and medical appliances to clarify the manner in which the tax rate on food is determined and to clarify the manner in which the exemption for drugs and medical appliances is administered.
7. Amendment of Section 130.2005 regarding nonprofit service enterprises to clarify how tax-exempt organizations handle fundraising events other than occasional dinners and bake sales and similar events.
8. Amendment of Section 130.325 regarding the graphic arts equipment exemption to clarify how the exemption applies when a purchase involves multiple payments or multiple deliveries.
9. The Department anticipates creating a new section regarding the intermodal facilities building materials exemption that was created by P.A. 94-0546.
10. Amendment of Section 130.2013 regarding the lessors credit to describe the requirements necessary for claiming the credit on sales to customers who are purchasing items that they had previously leased from those lessors.
11. Amendment of Section 130.2165 regarding veterinarians to clarify when the tax is applicable in situations involving over-the-counter transactions versus service transactions.
12. Amendment of Section 130.455 regarding motor vehicle trade-ins to clarify issues regarding trade-ins including how advance trade-ins apply in auction situations.
13. Amendment of Section 130.2115 regarding special order items to clarify how repeat orders of special order items are taxed.

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14. Amendment of Section 130.415 regarding shipping and handling charges to clarify what tax rate applies to taxable handling charges for an order that contains both high tax rate and low tax rate items.
 15. Amendment of Section 130.331 to clarify that claims for credit filed by taxpayers who merely wish to change a method of payment for a taxable purchase in order to use Manufacturer's Purchase Credit do not accrue interest on those claims.
 16. The Department anticipates creating a new section regarding the exemption for building materials incorporated into qualifying Rivers Edge Redevelopment Zones created by P.A. 94-1021.
- B) Statutory Authority: 35 ILCS 120
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 130 over the next six months. We anticipate filing rulemakings amending Part 130 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Small businesses that sell tangible personal property at retail will be affected by these regulations. Transportation companies and their suppliers will be affected by the rolling stock regulations. Restaurants, grocers and other establishments selling food products will be affected by changes to Section 130.310, as will persons selling drugs and medical appliances. Businesses selling motor vehicles will be affected by the changes proposed to Section 130.605. Hotels will be affected by the changes proposed to Section 130.2145. Tax exempt organizations will be affected by the changes proposed to Section 130.2005.
- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales & Excise Tax
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DEPARTMENT OF REVENUE

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Telephone: 217/782-2844

G) Related rulemakings and other pertinent information: Nonee) Part: Service Occupation Tax, 86 Ill. Adm. Code 1401) Rulemaking:

- A) Description: Amendments will be made as part of a general update to clarify application of the Service Occupation Tax and to reflect recent decisional law, statutory changes and Department policy. Some of the highlights of these changes are revisions to Section 140.108 to add an example of a company that provides water service as a de minimis serviceman; and the addition of language to reinforce that de minimis servicemen cannot provide certificates of resale if those de minimis servicemen are registered with the Department only for the limited purpose of self-assessing and remitting their own use tax liability.
- B) Statutory Authority: 35 ILCS 115
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 140 over the next six months. We anticipate filing rulemakings amending Part 140 on a regular basis during the next six months of this year.
- E) Effect on small business, small municipalities or not-for-profit corporations: Servicemen transferring tangible personal property incident to service will be affected by these rules.
- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

Springfield, IL 62794

Telephone: 217/782-2844

G) Related rulemakings and other pertinent information: Nonef) Part: Use Tax, 86 Ill. Adm. Code 1501) Rulemaking:

A) Description: Amendments will be made to update the Use Tax regulations to reflect new statutory developments, decisional law and Department policies. Examples include regulations that set forth the Department's policies regarding the types of activities and relationships that establish nexus for Use Tax collection, and amendments to Section 150.306 to describe the factors that the Department will consider when determining if an item qualifies for the interim use exemption.

B) Statutory Authority: 35 ILCS 105

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 150 during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Use Tax.

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794

Telephone: 217/782-2844

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

g) Part: Service Use Tax, 86 Ill. Adm. Code 160

1) Rulemaking:

A) Description: Amendments will be made to update the Service Use Tax regulations to reflect new statutory developments, decisional law and Department policies.

B) Statutory Authority: 35 ILCS 110

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 160 during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Service Use Tax, including persons required to collect Use Tax from Illinois purchasers.

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794

Telephone: 217/782-2844

G) Related rulemakings and other pertinent information: None

h) Part: Metro East Mass Transit District ROT, 86 Ill. Adm. Code 370

1) Rulemaking:

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

- A) Description: Regulations will be updated to reflect past statutory changes including the provisions of Public Act 94-776 regarding the taxation of titled or registered tangible personal property.
- B) Statutory Authority: 70 ILCS 3610/5.01
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Businesses that sell tangible personal property, especially titled or registered tangible personal property, in a Metro East Mass Transit District would be minimally impacted.
- F) Agency contact person for information:
- Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
- Telephone: 217/782-2844
- G) Related rulemakings and other pertinent information: Similar changes will be made to Parts 380 and 390 regarding the taxes imposed in Metro East Mass Transit Districts.

i) Part: Metro East Mass Transit District SOT, 86 Ill. Adm. Code 380

1) Rulemaking:

- A) Description: Regulations will be updated to reflect past statutory changes including the provisions of Public Act 94-776 regarding the taxation of titled or registered tangible personal property.
- B) Statutory Authority: 70 ILCS 3610/5.01

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JANUARY 2007 REGULATORY AGENDA

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Businesses that make sales of service involving the transfer of tangible personal property in a Metro East Mass Transit District would be minimally impacted.
- F) Agency contact person for information:
- Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
- Telephone: 217/782-2844
- G) Related rulemakings and other pertinent information: Similar changes will be made to Parts 370 and 390 regarding the taxes imposed in Metro East Mass Transit Districts.

j) Part: Metro East Mass Transit District UT, 86 Ill. Adm. Code 390

1) Rulemaking:

- A) Description: Regulations will be updated to reflect past statutory changes including the provisions of Public Act 94-776 regarding the taxation of titled or registered tangible personal property.
- B) Statutory Authority: 70 ILCS 3610/5.01
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Businesses that sell tangible personal property, especially titled or registered tangible personal property, in a Metro East Mass Transit District would be minimally impacted.
- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794

Telephone: 217/782-2844

- G) Related rulemakings and other pertinent information: Similar changes will be made to Parts 370 and 380 regarding the taxes imposed in Metro East Mass Transit Districts.

k) Part: Bingo License and Tax Act, 86 Ill. Adm. Code 430

1) Rulemaking:

- A) Description: Regulations will be updated to reflect the provisions of Public Act 93-742, which authorizes the Department to issue 3-year bingo licenses, including regular licenses, limited licenses or senior citizen restricted licenses. The regulations will also be amended to clarify record keeping requirements and the documentation required for a license application.
- B) Statutory Authority: 230 ILCS 25/1
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

- E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for bingo licenses will be affected by this rulemaking.
- F) Agency contact person for information:
- Paul Caselton
Deputy General Counsel, Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
- Telephone: 217/524-3951
- G) Related rulemakings and other pertinent information: There are no related rulemakings.

l) Part: Pull Tabs and Jar Games, 86 Ill. Adm. Code 432

- 1) Rulemaking:
- A) Description: Regulations will be amended to clarify record keeping requirements and the documentation required for a license application.
- B) Statutory Authority: 230 ILCS 20/1
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for pull tabs and jar games licenses will be affected by this rulemaking.
- F) Agency contact person for information:

Paul Caselton

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

Deputy General Counsel, Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794

Telephone: 217/524-3951

- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- m) Part: Charitable Games, 86 Ill. Adm. Code 435
- 1) Rulemaking:
- A) Description: Regulations will be amended to clarify record keeping requirements and the documentation required for a license application.
- B) Statutory Authority: 230 ILCS 30/1
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for a charitable games license will be affected by this rulemaking.
- F) Agency contact person for information:

Paul Caselton
Deputy General Counsel, Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794

Telephone: 217/524-3951

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- n) Part: Telecommunications Excise Tax, 86 Ill. Adm. Code 495
- 1) Rulemaking:
- A) Description: Regulations will be updated to reflect new statutory provisions, decisional law and Department policy. Examples include:
1. Regulations that explain the manner in which DSL services are taxed.
 2. Regulations that explain the taxation of telecommunications that are provided by cable and satellite television companies as part of internet access services and the taxation of Voice Over Internet Protocol (VOIP).
 3. Regulations which reflect the provisions of the Simplified Telecommunications Tax Act (92-526, 92-878, 92-602, 93-286, and 94-793) and the Mobile Telecommunications Sourcing Conformity Act. (92-474).
 4. Regulations that explain the telecommunications tax liabilities involved when multiple parties are joined together in different conference calling arrangements.
- B) Statutory Authority: 35 ILCS 630; Public Acts 92-526; 92-0602; 92-878, 93-286, and 94-793
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings to Part 495 during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Retailers of telecommunications and their telecommunications customers will be affected by these regulations.

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794

Telephone: 217/782-2844

G) Related rulemakings and other pertinent information: There are no related rulemakings.o) Part: Motor Fuel Tax, 86 Ill. Adm. Code 5001) Rulemaking:

A) Description: Regulations will be updated to reflect new statutory provisions, new provisions and procedures under the International Fuel Tax Agreement, and changes in Department procedures.

B) Statutory Authority: 35 ILCS 505/14

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings to Part 500 during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Motor fuel distributors, suppliers and receivers, as well as persons licensed under the International Fuel Tax Agreement, will be affected by these regulations.

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

Springfield, IL 62794

Telephone: 217/782-2844

- G) Related rulemakings and other pertinent information: There are no related rulemakings.
- p) Part: New Part, Amnesty, 86 Ill. Adm. Code 522
- 1) Rulemaking:
- A) Description: Emergency regulations adopted after the Illinois Tax Delinquency Act was enacted in 2003 (Public Act 93-0026) have expired and must be replaced by permanent regulations.
- B) Statutory Authority: 35 ILCS 745
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: Within the next 6 months.
- E) Effect on small business, small municipalities and not for profit corporations: Any small business or not for profit corporation that had an Illinois tax liability that qualified for amnesty under the Illinois Tax Delinquency Act will receive guidance on the consequences of participating or failing to participate in the amnesty program.
- F) Agency contact person for information:
- Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
- Telephone: 217/524-3951
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

q) Part: Non-Home Rule Municipal Retailers' Occupation Tax, 86 Ill. Adm. Code 6931) Rulemaking:

- A) Description: Section 693.101 will be amended to reference the increase in the maximum tax rate authorized from ½% to 1% pursuant to Public Act 94-679, effective January 1, 2006.
- B) Statutory Authority: 65 ILCS 5/8-11-1.1; 65 ILCS 5/8-11-1.3
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Non-home rule municipalities are authorized to impose the tax at a maximum rate of 1% (formerly ½ %). All businesses that are engaged in making sales of tangible personal property at retail in such non-home rule municipalities will be subject to tax at a maximum rate of 1% (formerly ½%).
- F) Agency contact person for information:
- Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
- Telephone: 217/782-2844
- G) Related rulemakings and other pertinent information: Similar rulemakings will be proposed for 86 Ill. Adm. Code Part 694.

r) Part: Non-Home Rule Municipal Service Occupation Tax, 86 Ill. Adm. Code 6941) Rulemaking:

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

- A) Description: Section 694.101 will be amended to reference the increase in the maximum tax rate authorized from ½% to 1% pursuant to Public Act 94-679, effective January 1, 2006.
- B) Statutory Authority: 65 ILCS 5/8-11-1.1; 65 ILCS 5/8-11-1.4
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: Non-home rule municipalities are authorized to impose the tax at a maximum rate of 1% (formerly ½%). All businesses that are engaged in making sales of service when tangible personal property is transferred incident to those sales of service in such non-home rule municipalities will be subject to tax at a maximum rate of 1% (formerly ½%).
- F) Agency contact person for information:
- Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
- Telephone: 217/782-2844
- G) Related rulemakings and other pertinent information: Similar rulemakings will be proposed for 86 Ill. Adm. Code Part 693.
- s) Part: Uniform Penalty and Interest Act, 86 Ill. Adm. Code 700
- 1) Rulemaking:
- A) Description: The Department will amend the regulations in Part 700 to reflect recent amendments to the Uniform Penalty and Interest Act.

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

- B) Statutory Authority: 20 ICLS 2505/2505-795
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filings during the next six months of this year.
- E) Effect on small business, small municipalities and not for profit corporations: These rulemakings will provide guidance for any business or not for profit corporation that incurs tax liabilities potentially subject to penalty or interest obligations under the Uniform Penalty and Interest Act.
- F) Agency contact person for information:
- Paul Caselton
Deputy General Counsel, Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
- Telephone: 217/524-3951
- G) Related rulemakings and other pertinent information: None
- t) Part: Public Information, Rulemaking And Organization, 86 Ill. Adm. Code 1200
- 1) Rule making:
- A) Description: Section 1200.110 will be amended to list additional information that is required from a taxpayer for a Private Letter Ruling request. Such additional information will include for example the taxpayer's Illinois Business Tax (IBT) number and Federal Employer Identification Number (FEIN) or other tax related identification numbers.
- B) Statutory Authority: 20 ILCS 2515/2515-3
- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

DEPARTMENT OF REVENUE

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- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
- E) Effect on small business, small municipalities or not for profit corporations: All businesses, small municipalities, and not for profit corporations that request a Private Letter Ruling from the Department will have to provide such additional information as part of their request.

- F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794

Telephone: 217/782-2844

- G) Related rulemakings and other pertinent information: None

- u) Part: New Part Governing Electronic Filing of Corporate Income Tax Returns

- 1) Rulemaking:

- A) Description: The Department will promulgate regulations providing the procedures for corporations, partnerships and tax exempt organizations to file their Illinois income tax returns electronically.
- B) Statutory Authority: 35 ILCS 5/502
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: We anticipate filings during the next six months of this year.
- E) Effect on small business, small municipalities and not for profit corporations: This rulemaking will provide guidance for corporations who will file their Illinois income tax returns electronically.

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

F) Agency contact person for information:

Rickey A. Walton
Special Assistant Attorney General
Illinois Department of Revenue
100 W. Randolph St., 7-900
Chicago, IL 60601

Telephone: 312/814-3185

G) Related rulemakings and other pertinent information: Nonev) Part: New Part Governing Internet Filing of Sales and Use Tax Returns1) Rulemaking:

A) Description: Regulations will be promulgated to provide the specific procedures and requirements for persons using an Internet-based system to file sales and use tax returns.

B) Statutory Authority: 20 ILCS 2505/2505-210

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Persons using the Internet to file sales and use tax returns will be affected by these rules.

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

Telephone: 217/782-2844

G) Related rulemakings and other pertinent information: Nonew) Part: New Part Governing Business District Taxes1) Rulemaking:A) Description: Regulations will be promulgated to set out specific procedures and requirements for the business district taxes authorized by P.A 93-1053.B) Statutory Authority: 65 ILCS 5/11-74.3-6C) Scheduled meetings/hearing dates: No schedule has been established at this time.D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.E) Effect on small business, small municipalities or not for profit corporations: Municipalities are authorized to impose these taxes within business districts established by those municipalities. All businesses that are engaged in making sales of tangible personal property at retail and sales of service when tangible personal property is transferred incident to those sales of service within a business district where those taxes are imposed will be subject to those taxes.F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: 217/782-2844

G) Related rulemakings and other pertinent information: Nonex) Part: Lottery, 11 Ill. Adm. Code 1770

DEPARTMENT OF REVENUE

JANUARY 2007 REGULATORY AGENDA

- 1) Rulemaking:
- A) Description: Lottery anticipates an amendment to 11 Ill. Adm. Code 1770.80 to simplify transactions for corporations experiencing a change in 50 percent or more of their corporate officers, for transfers of ownership interests between immediate family members, and for municipal entities experiencing a change in elected officials. Additionally, we will amend Section 1770.130 to change a "Big Game" reference to the current game name, "Mega Millions."
- B) Statutory Authority: Section 7.1 of the Illinois Lottery Law [20 ILCS 1605/7.1]
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled.
- D) Date agency anticipates First Notice: The Lottery has not established a timeframe for this anticipated rulemaking.
- E) Effect on small business, small municipalities or not for profit corporations: The anticipated rule will reduce the cost of transferring ownership of small, family-owned businesses, both in terms of fees and time invested. The same will be true for not-for-profit corporations and municipalities.
- F) Agency contact person for information:
- Lisa A. Crites
Illinois Dept. of Revenue
Lottery Program
101 W. Jefferson, MC 5-950
Springfield, IL 62702
- Telephone: 217/524-5253
- G) Related rulemakings and other pertinent information: There is no related rulemaking.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
140.534	Amendment
140.560	Amendment
140.569	Amendment
- 4) Date Proposal Published in Illinois Register: April 14, 2006; 30 Ill. Reg. 6230 (Sections 140.534 and 140.560) and January 27, 2006; 30 Ill. Reg. 1231 (Section 140.569)
- 5) Date Adoption Published in Illinois Register: September 1, 2006; 30 Ill. Reg. 14280
- 6) Date Request for Expedited Correction Published in Illinois Register: November 3, 2006; 30 Ill. Reg. 17635
- 7) Adoption Effective Date: August 18, 2006
- 8) Correction Effective Date: August 18, 2006
- 9) Reasons for Approval of Expedited Correction: It was brought to the Department's attention that nonsubstantive errors were present in the rulemaking that was adopted at 30 Ill. Reg. 14280, effective August 18, 2008. HFS feels that it is in the public interest that the following corrections be made:

The Table of Contents is missing the "140.405 SeniorCare Pharmaceutical Benefit (Repealed)" entry. The existing "140.431" should be "140.432", and "140.431 Services Not Covered by Independent Clinical Laboratories" should be in the Table of Contents.

In Section 140.534, there should be no Subpart heading above the file page for this Section. However, the Register text includes the Subpart heading.

In Section 140.534(f), the 4th and 5th sentences should be reversed.

In Section 140.560(e), in the second sentence, "calculation" should follow "rate"; in subsection (f)(4), the article "a" should not precede "part".

In Section 140.569(a)(1), "Exceptional Care" should be lower case.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EXPEDITED CORRECTION

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EXPEDITED CORRECTION

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EXPEDITED CORRECTION

140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EXPEDITED CORRECTION

- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of

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150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency

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amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1,

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1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency

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amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277,

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effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513,

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effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days.

SUBPART E: GROUP CARE

Section 140.534 Ownership Costs

Ownership costs are allowable as follows:

- a) Depreciation
Depreciation on care related assets is an allowable cost subject to the following conditions:
 - 1) Depreciation must be computed on a straight-line basis, starting from the date of completion or installation.
 - 2) Depreciation must be based on historical cost of the asset (purchased assets) or fair market value at the time of donation or inheritance of the asset (donated or inherited assets).
 - 3) Depreciation must be spread over the useful life of the asset using the

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American Hospital Association guidelines followed by Medicare at a minimum.

- b) **Acquisitions of Fixed Equipment**
If an item has, at the time of its acquisition, an estimated useful life of at least two years and a historical cost of at least \$2,500, its cost must be capitalized and depreciated over the estimated useful life of the asset using the straight-line method of depreciation. If an item has an historical cost of less than \$2,500, or if the item has a useful life of less than two years, its cost must be expensed in the cost report year it was incurred.
- c) **Betterments and Improvements**
Betterments and improvements extend the life, increase the productivity, or significantly improve the safety (for example, asbestos removal) of an asset as opposed to repairs and maintenance that either restore the asset to, or maintain it at, its normal or expected service life. To be capitalized, the betterment or improvement must be \$2,500 or more. Generally accepted accounting principles relating to improvements or betterments must be followed in determining the asset valuation. Repair or maintenance of a nature that restores an asset to its original condition but does not extend its useful life is not a betterment or improvement but an expense of that period.
- d) **Repair Costs**
Repair costs restore the asset to normal working condition and expected service life. Single items of repair that cost \$2,500 or more and have a life of two years or more are to be considered as capital improvements and depreciated over the useful life of the item. All other repairs must be expensed in the cost report year the cost was incurred. Maintenance costs are always expensed in the cost report year in which they are incurred.
- e) **Movable Equipment Costs**
Single items of movable equipment at a cost of \$2,500 or more having an estimated useful life of two years or longer must be capitalized. For cost reporting purposes, the term movable equipment will include all equipment items referred to in the most current edition of the American Hospital Association guidelines followed by Medicare. Items purchased in quantity must also be compared to the \$2,500 threshold.
- f) **Painting and Wallpaper**
Painting and wallpapering costs of \$2,500 or more in total for the year will be

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allowed to be capitalized and depreciated over five years. When the cost is fully depreciated, it must be removed from the cost report in the year it becomes fully depreciated. The choice of whether to capitalize these costs must be made at the time the cost report is filed. If total costs are under \$2,500 or an election to capitalize and depreciate over five years is not made, the painting and wallpapering costs must be expensed in the year incurred. Once the cost report is properly filed, no changes to the classification of the painting and wallpapering costs will be allowed. ~~If total costs are under \$2,500 or an election to capitalize and depreciate over five years is not made, the painting and wallpapering costs must be expensed in the year incurred.~~

- g) Disposal of Assets
For building costs, only capital assets that are specifically identified on the cost report are capable of being removed from the cost report as a retired or disposed of asset. Movable equipment items should be removed from the cost report when they are retired. Depreciable assets may be disposed of through sale, scrapping, trade-in, donation, exchange, demolition, abandonment or involuntary conversions such as condemnation, fire, theft or other casualty. When an asset has been retired from active service but is being held for standby or emergency services, the asset must be reported in the non-care section of the cost report.
- h) Central Office Assets
For building costs allocated from a central office, the total cost allocation to an individual facility is limited to five percent of the total building cost for the current owner of the nursing home building. If the current operator leases the building from an unrelated party, the five percent is limited to the Original Building Base Cost as defined in Section 140.570. The central office allocation is not included in the total building cost for the current owner or the Original Building Base Cost that will be used in the five percent calculation. Allocated central office buildings are subject to the standards of Section 140.563.
- i) Partnership Assets
The basis of assets of a partnership are not allowed to be increased due to a partner buyout.
- j) Change of Ownership
For any change of ownership after July 18, 1984, the cost basis of any asset for determination of allowable depreciation expense shall be the lesser of the allowable acquisition cost of the asset of the first owner of record on or after July 18, 1984, or the acquisition cost of the asset to the new owner.

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(Source: Expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006)

Section 140.560 Components of the Base Rate Determination

Except as specified otherwise in this Section, rates calculated for the rate year beginning July 1, 1990 and for subsequent years thereafter shall be based on the facility's cost report for the facility's full fiscal year ending at any point in time during the previous calendar year as long as that cost report is filed prior to April 1. Otherwise, the latest cost report available on March 31 will be used to set rates for July 1. For example, if a facility with a December 31, 1989 year end files their cost report prior to April 1, 1990, that cost report will be used to set rates for the rate year to begin on July 1, 1990. In this example, if the December 31, 1989 cost report is not filed until after March 31, 1990, the December 31, 1988 cost report will be used to set rates for the rate year to begin on July 1, 1990.

- a) In the case of a change in ownership of a previously certified facility, the rate issued to the previous owner will be in effect for the remainder of the rate year. A new rate will be calculated for the next rate year based on the new owner's cost report if a cost report covering a minimum of the first six months of operation is received by the Bureau of Health Finance prior to April 1st. If a cost report covering the first six or more months of operation for the new owner cannot be filed with the Bureau of Health Finance prior to April 1st, the rate will be calculated based upon the prior owner's cost report filed in accordance with the opening paragraph of this Section. A cost report that has not been completed in accordance with the Department's rules and cost report instructions will not be considered as received until all cost report pages are properly completed.
- b) In the case of a new facility, capital reimbursement will be assigned on the receipt of the first cost report (which may be an abbreviated cost report). The support reimbursement will be set at the median for that region. The facility must then file a six-month cost report (beginning with the date the first patient was admitted) that contains actual historical cost information. The capital and support rates will then be recalculated based upon this cost report. Rates so calculated will become effective on the first day of the first month after the six-month cost report is received by the Department's Bureau of Health Finance. The facility must obtain written verification of the initial cost reporting periods from the Bureau of Health Finance.
- c) When a construction addition to the building will increase the licensed bed capacity by ten percent or more, the facility may file a revised cost report

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reflecting the increased capital investment. If this revised cost report is filed within 30 days after the date of the increase in licensure as determined by the Illinois Department of Public Health, any increase in the capital rate will be effective on the effective date of licensure increase. If the revised cost report is filed more than 30 days after the effective date of increase in licensure, any increase in the capital rate will be effective on the first day of the first month after the report is received by the Bureau of Health Finance.

- d) Once a rate for an individual facility has been calculated, a new rate will not be calculated during the course of the rate year except as provided in subsections (b) and (c) of this Section.
- e) If a facility incurs building construction improvements that increase the total building cost for the current owner by ten percent or more and that would raise the base year, then the nursing home may file a revised cost report that reports the increased capital investment. Only facility building construction improvements completed after the end of the period of the report used to calculate the last capital rate [calculation](#) can be used to meet the ten percent requirement. Purchases of buildings for use by the facility and allocations of central office buildings and improvements cannot be used to meet the ten percent requirement. The base year is defined in Section 140.570(b)(2). If the improvements have been completed and put into use prior to the forthcoming rate year and the cost report reflecting increased capital costs is filed prior to the beginning of the next rate year, then any increase in the capital rate will be effective on the first day of the rate year.
- f) In order to accommodate the downsizing to close or reduce bed capacity of ICF/MR facilities licensed for ICF/DD or SNF/PED Services, the following provisions will apply. These provisions only apply for facilities with 17 or more licensed beds that decrease their total licensed beds by 20 percent or more due to a decrease in the beds licensed as ICF/DD or SNF/PED. The reduced bed capacity must be necessary to achieve one or more of the following goals: achieve compliance with ICF/MR regulations, such as four or fewer persons per room; achieve compliance with ICF/MR regulations in an adverse action as part of a Plan of Correction (see the Department of Public Health rules at 77 Ill. Adm. Code 300.278); increase available space in order to provide active treatment services to residents; and permit the voluntary closure of a facility in order to achieve community placement to settings of size eight or fewer residents, provided sufficient funds are available to the Department of Human Services (DHS).

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- 1) The facility must request pre-approval for application of these provisions from the DHS Director of the Division of Disability and Behavioral Health Services (DDBHS). The written request must describe the necessity to reduce licensed bed capacity. The facility must submit a proposed timetable for the downsizing, including the projected dates of each decrease in census and the census on that date (the benchmark). Written approval may be granted if DHS determines the change will be beneficial for the ICF/DD or SNF/PED residents. If approval is granted, DHS will enter into a downsizing agreement with the facility with provisions including the downsizing plan, benchmarks, rate adjustments and items of compliance regarding the safety and placement of residents.
- 2) The reduction in the number of licensed beds must be completed within a one-year period following the DDBHS Director's approval, unless a longer reduction period is approved by the Deputy Director at the onset of the plan. Not fewer than 90 days prior to the projected end date of the downsizing plan, the facility must make application to the Department of Public Health (DPH) for a formal licensure change to reflect the number of licensed beds, if any, to remain at the conclusion of the downsizing plan. The effective date of the licensed bed change will be the actual date the final resident benchmark census objective is reached.
- 3) A facility is ineligible for downsizing if the facility has been notified in writing by DPH of a need for a Plan of Correction for non-compliance with conditions of participation, Type A violations, licensure non-compliance, or because the facility has been declared an "immediate and serious threat" to the welfare of any resident or residents in the one-year period preceding the date of a request for application of these downsizing provisions unless the DDBHS Director has granted the facility a waiver of this one year requirement.
- 4) When DPH notifies a facility in writing of a need for a Plan of Correction for non-compliance with conditions of participation, Type A violations, licensure non-compliance, or because the facility has been declared an "immediate and serious threat" to the welfare of any resident, the facility may seek DHS approval of a downsizing plan concurrently as a-part of a Plan of Correction to DPH in accordance with the time frames and process allotted by DPH. If a downsize application is not made at this time and as a-part of a Plan of Correction, the facility is ineligible for downsizing.

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- 5) During the downsizing period, the facility may not accept any admissions except with explicit permission of DHS. The facility must agree to make every effort to insure immediate notification (within 72 hours) to DHS and to the local DHS office of all changes in recipient enrollment, eligibility, income, assets, earnings and other status. The facility must agree to make available to DHS and interested parties such records as necessary to disclose the type and quantity of care provided to specific residents, as well as physicians' reports, need for care, level of functioning and orders for services. The facility must agree to provide access to resident care records and facility records and policies concerning resident care throughout the downsizing period.
- 6) The capital and support rates in effect at the time of approval of the downsizing plan (exclusive of any flat add-on rate increases) will be modified for downsizing in accordance with subsection (f)(9) of this Section.
- 7) The capital and support rates will be revised with the achievement of the benchmarks specified in the downsizing agreement during the approved downsizing period.
 - A) The capital rate will be increased in proportion to the agreed on decrease in the census achieved at the end of each benchmark period from the census at the start of the downsizing period. For example, with an original census of 98 residents at the start of the downsizing period and the achievement of a reduction of eight residents to reach the benchmark of 90 residents, the initial \$7.41 capital rate will be increased to \$8.07 as follows: (the initial capital rate) is multiplied by (the original census that has been divided by the achieved census reduction), or $(\$7.41) \times (98/90 \text{ or } 1.089) = \8.07 .
 - B) The support rate will be increased in proportion to the decrease in census achieved at the end of each benchmark period from the census at the start of the downsizing period, with the assumption that 50 percent of the support costs are fixed and 50 percent of the support rate is variable (for example, costs vary as the number of residents varies). The fixed half of the support rate will be increased in proportion to the achieved decrease at the end of each benchmark period. For example, with an original support rate of

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\$22, the support rate would be $[(.5 \times \$22) \times (98/90)] + (.5 \times \$22) = \$22.98$.

- C) The program rate will be set according to the methodology in DHS rules at 89 Ill. Adm. Code 144 (exclusive of any flat add-on increases).
- 8) The support rate for ICF/DD facilities may not exceed the facility's geographic area ceiling. Facilities having SNF/PED licenses that are reducing facility census to comply with ICF/MR regulations that limit the number of persons per bedroom to four or fewer may exceed the facility's geographic area ceiling but by no more than 125 percent. The exception allowing SNF/PED facilities to exceed the support rate geographic area ceiling will only be based on the reduction in census to attain four or fewer persons per bedroom. If a SNF/PED facility reduces census below that required to attain four persons per bedroom, the support rate may not exceed the facility's geographic area ceiling.
- 9) At the conclusion of the downsizing period the capital, support and program rates will be determined as follows:
- A) The capital rate component will be fixed at the final downsizing rate and will remain in effect until such time as the rate methodology in effect produces a rate based on the downsized licensed capacity that surpasses the downsize capital rate amount. The final downsize capital rate will be increased by funding changes such as cost of living increases, when given. All space in the facility must continue to be used as an ICF/DD or SNF/PED. Use of the facility for an on-site developmental training program, school services or uses unrelated to the operation of the facility as an ICF/DD or SNF/PED, will require the calculation of the capital rate according to the methodology of Sections 140.570 through 140.574 after an adjustment of the facility's capital costs in proportion to the involved square footage. This capital rate will be effective the first day of the month following the change in space usage. Capital improvements to the downsized facility may be made and will be reimbursed as an increase to the downsize capital rate determined as the applicable percentage rate of return of the capital methodology times the per diem per bed reported amount of the improvement. The support rate in effect at the end of the

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downsizing period will remain in effect until a cost report covering the first six months of operation of the downsized facility is submitted as would be applicable to a new facility in accordance with provisions in subsection (b) of this Section. These six-month costs and the corresponding days of care will be used to set the support rate in accordance with the support component rate methodology in effect.

- B) The program rate will be set according to the methodology described at 89 Ill. Adm. Code 144.

(Source: Expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006)

Section 140.569 Clients With Exceptional Care Needs

- a) Exceptional Care Program
- 1) Effective January 1, 2007, exceptional care services shall be covered under the MDS-based reimbursement methodology as described in 89 Ill. Adm. Code 147. Table A. As long as the nursing facility's case mix, as determined by total minutes from 89 Ill. Adm. Code 147. Table A, does not decrease in excess of five percent when compared to the case mix as of June 30, 2006, exceptional care reimbursement shall be converted to a per diem computed as the sum of all exceptional care daily payments less the residential rate made to the facility on June 30, 2006 divided by the total number of residents that are paid nursing and exceptional care rates as of June 30, 2006. No new residents will be accepted into the Exceptional Care Program after December 31, 2006. All facility exceptional care ~~Exceptional Care~~ contracts will be terminated December 31, 2006. The provisions of this Section governing the Exceptional Care Program remain in place through December 31, 2006.
 - 2) Pursuant to Section 5-5.8a of the Illinois Public Aid Code [305 ILCS 5/5-5.8a], the Department may make payments for exceptional care services to nursing facilities ("providers") that meet licensure and certification requirements as may be prescribed by the Department of Public Health and are enrolled in and meet participation requirements of the Medical Assistance Program pursuant to Sections 140.11 and 140.12.
 - 3) Exceptional medical care is defined as the level of care with extraordinary

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costs related to services which may include physician, nurse, ancillary specialist services, and medical equipment and/or supplies that have been determined to be a medical necessity. This shall apply to Medicaid patients who are being discharged from the hospital or other setting where Medicaid reimbursement is at a rate higher than the exceptional care rate for related services or to persons who are in need of exceptional care services who would otherwise be in an alternative setting at a higher cost to the Department and Medicaid eligible residents transitioning from Medicare to Medicaid while in the nursing facility. This includes but is not limited to head-injured persons, ventilator dependent persons or persons with HIV/AIDS.

- 4) The Department shall negotiate rates with facilities requesting payment for exceptional care services (see Section 5-5.8a of the Public Aid Code [305 ILCS 5/5-5.8a]). In determining the rates of payment, the Department shall consider data collected from exceptional care providers during fiscal year 1994, any intervening rate adjustments (including any updates for inflation) and the average cost of each service category for the geographic area in which the facility is located. After approval of negotiated rates, the Department shall annually update a facility's rates for inflation.

b) Exceptional Care Requirements

The Department may enter into agreements with providers for the provision of exceptional care services only if the provider agrees to the following terms:

- 1) The provider will maintain separate records regarding costs related to the care of the exceptional care residents.
- 2) The provider must demonstrate the capacity and capability to provide exceptional care as documented by Department of Public Health and Department of Healthcare and Family Services records, including, but not limited to, being free of finalized Department of Public Health findings (exhaustion of appeals process with deficiencies remaining) after January 1, 1997, that the provider has deficiencies related to substandard quality of care during the period of time since the last standard certification survey or imposition of a conditional license.
- 3) The provider must maintain and provide documentation demonstrating:
 - A) Adherence to staffing requirements as set out in subsection (c) of

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this Section;

- B) Adherence to staff training requirements as set out in subsection (d) of this Section;
 - C) Validity of written agreements as required in subsection (e) of this Section;
 - D) Presence of emergency policy and procedures as set out in subsection (f) of this Section;
 - E) Medical condition of the resident; and
 - F) Care, treatments and services provided to the resident.
- 4) The provider must have and maintain physical plant adaptations to accommodate the necessary equipment, such as an emergency electrical backup system.
- c) **Exceptional Care Staffing Requirements**
Staffing requirements for providers of exceptional care include:
- 1) A minimum of one RN on duty on the day shift, seven days per week (as required by the Department of Public Health in 77 Ill. Adm. Code 300.1240 or 250.910(e) and (f)(1) as appropriate). Additional RN staff may be determined necessary by the Department of Healthcare and Family Services, based on the Department's review of the exceptional care services needs;
 - 2) A minimum of the required number of LPN staff (as required by the Department of Public Health in 77 Ill. Adm. Code 300.1230 and 300.1240 or 250.910(e) and (f)(1) as appropriate), on duty, with an RN on call, if not on duty on the evening and night shifts, seven days per week; and
 - 3) For those providers of complex respiratory or ventilator services under the exceptional care program, a certified respiratory therapy technician or registered respiratory therapist, on staff or on contract with the provider.
- d) **Training Requirements for Providers of Exceptional Care for Ventilator Dependent Residents**

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- 1) At least one of the full-time professional nursing staff members must have successfully completed a course in the care of ventilator dependent individuals and the use of ventilators, conducted and documented by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one year experience in the care of ventilator dependent persons.
 - 2) All staff caring for ventilator dependent residents must have documented inservice training in ventilator care prior to providing such care. Inservice training must be conducted at least annually by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one year experience in the care of ventilator dependent persons. Inservice training documentation shall include name and qualification of the inservice director, duration of presentation, content of presentation and signature and position description of all participants.
- e) Exceptional Care Agreement Requirements
The provider must have a valid written agreement with:
- 1) A medical equipment and supply provider which must include a service contract for ventilator equipment when accepting ventilator dependent residents;
 - 2) A local emergency transportation provider;
 - 3) A local hospital capable of providing the necessary care for equipment dependent residents, when appropriate; and
 - 4) A certified respiratory therapy technician or registered respiratory therapist (unless a respiratory therapist is on staff within the facility), when accepting ventilator dependent residents or residents requiring respiratory therapy services.
- f) Exceptional Care Emergency Policy and Procedures Requirements
The provider must have specific written policies and procedures addressing emergency needs for residents requiring exceptional care.
- g) Accessibility to Records

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EXPEDITED CORRECTION

The provider must make accessible to HFS and/or IDPH all provider, resident and other records necessary to determine that the needs of the resident are being met and to determine the appropriateness of exceptional care services.

- h) Provider Approval Process
 - 1) A provider shall notify the Department, in writing, of its interest in participating in the Exceptional Care Program.
 - 2) If approved by the Department, a written exceptional care agreement with the provider shall be executed. Such agreements are separate and distinct from the provider agreements specified in Section 140.11(a)(6) and are not subject to the provisions regarding notice and right to hearing in the event of termination specified in 89 Ill. Adm. Code 104.208 and 104.210.
 - 3) Providers desiring to discontinue providing exceptional care shall notify the Department, in writing, at least 60 days prior to the date of termination. Payment for exceptional care residents already residing in facilities which notify the Department that they wish to discontinue providing exceptional care services will remain at the previous exceptional care rate as long as the resident meets exceptional care criteria and as long as all related criteria are met by the provider as determined by the Department's utilization review (see Monitoring, subsections (k)(2) and (3) of this Section) or the resident is discharged.
 - 4) It is the responsibility of the provider to effect appropriate discharge planning for exceptional care residents when terminating services for exceptional care. The Department agrees to assist providers with any information available regarding appropriate placement settings.
 - 5) The Department may terminate a provider's agreement, for any reason, upon 60 days written notice to the provider. Reasons for which the Department may terminate an agreement include, but are not limited to, Department of Public Health findings that the provider has deficiencies related to substandard quality of care or imposition of a conditional license.
- i) Determining Eligibility for Exceptional Care Payment
 - 1) A person being discharged from a hospital or those who are in another

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EXPEDITED CORRECTION

setting must be approved by an authorized Department representative prior to placement in a facility to be eligible for exceptional care payment.

- 2) In order for a person to be approved for exceptional care reimbursement, the cost of the person's care must be at least 50% more than the proposed admitting provider's Medicaid per diem rate (capital, support and nursing components). Eligible items that may be used in computing the cost of the resident's care include nursing services costs, therapy services costs, and medical equipment and supply costs. Computations for determining cost of care shall be based upon costs for services, medical equipment and supplies for the proposed admitting provider as determined by the Department.
- j) Provision for Hospital Patients for which a Long Term Care Placement is Unavailable
- In the event placement for a patient in need of exceptional care services or skilled nursing services cannot be located, the Department shall approve payment to the hospital in which the patient is receiving services at a rate not to exceed the average Statewide long term care provider per diem for the level of services provided.
- k) Monitoring
- 1) All utilization controls applied to exceptional care by the Department in accordance with the approved plan for medical services under the Illinois Public Aid Code [305 ILCS 5/5-2], and Title XIX of the Federal Social Security Act (42 USC 1396a) shall continue to apply to exceptional care provided under the Exceptional Care Program described in the Health Finance Reform Act [20 ILCS 2215/3-5].
 - 2) The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with Medical Peer Review organizations to provide utilization review and quality assurance.
 - 3) The Department shall review exceptional care residents' utilization of services every 90 days. A review may be waived by the Department if one or more previous assessments show that a resident's condition has stabilized. However, two consecutive reviews shall not be waived. Department staff will maintain contact with the long term care provider

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EXPEDITED CORRECTION

regarding the resident's condition during the time period any assessment is waived.

- 4) In the event that it is determined that the resident is no longer in need of or receiving exceptional care services, the Department shall discontinue the exceptional care payment rate for the resident and reduce the rate of payment to the provider to the provider's standard Medicaid per diem rate.

(Source: Expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
8:30 A.M.
JANUARY 9, 2007

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

Email: jcar@ilga.gov

Phone: 217/785-2254

RULEMAKINGS CURRENTLY BEFORE JCAR**PROPOSED RULEMAKINGS**Agriculture

1. Animal Welfare Act (8 Ill. Adm. Code 25)
 - First Notice Published: 30 Ill. Reg. 14644 – 9/15/06
 - Expiration of Second Notice: 1/10/07

Central Management Services

2. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 30 Ill. Reg. 15240 – 9/29/06
 - Expiration of Second Notice: 1/10/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

3. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 30 Ill. Reg. 16504 – 10/20/06
 - Expiration of Second Notice: 1/28/07

Children and Family Services

4. Licensing Standards for Child Care Institutions and Maternity Centers (89 Ill. Adm. Code 404)
 - First Notice Published: 30 Ill. Reg. 9246 – 5/19/06
 - Expiration of Second Notice: 1/20/07

Commerce and Economic Opportunity

5. Illinois Film Production Services Tax Credit Program (14 Ill. Adm. Code 528)
 - First Notice Published: 30 Ill. Reg. 15316 – 9/29/06
 - Expiration of Second Notice: 2/3/07
6. Illinois Renewable Fuels Development Program (32 Ill. Adm. Code 130)
 - First Notice Published: 30 Ill. Reg. 14698 – 9/15/06
 - Expiration of Second Notice: 2/4/07

Commerce Commission

7. Household Goods Carriers (92 Ill. Adm. Code 1457)
 - First Notice Published: 30 Ill. Reg. 14199 – 9/1/06
 - Expiration of Second Notice: 1/20/07

Education

8. Special Education (23 Ill. Adm. Code 226)
 - First Notice Published: 30 Ill. Reg. 4421 – 3/17/06
 - Expiration of Second Notice: 1/28/07
9. Gifted Education (23 Ill. Adm. Code 227)
 - First Notice Published: 30 Ill. Reg. 5763 – 3/31/06
 - Expiration of Second Notice: 2/2/07
10. Summer Bridges Program (23 Ill. Adm. Code 232)
 - First Notice Published: 30 Ill. Reg. 16242 – 10/13/06
 - Expiration of Second Notice: 2/2/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

11. Advanced Placement (23 Ill. Adm. Code 270)
-First Notice Published: 30 Ill. Reg. 16254 – 10/13/06
-Expiration of Second Notice: 2/2/07

Financial and Professional Regulation

12. Insurance Cost Containment Data Reporting Requirements (50 Ill. Adm. Code 4203)
-First Notice Published: 30 Ill. Reg. 1721 – 2/10/06
-Expiration of Second Notice: 1/26/07

Healthcare and Family Services

13. Medical Assistance Programs (89 Ill. Adm. Code 120)
-First Notice Published: 30 Ill. Reg. 14746 – 9/15/06
-Expiration of Second Notice: 1/19/07
14. Veterans Health Insurance Program (89 Ill. Adm. Code 128)
-First Notice Published: 30 Ill. Reg. 14748 – 9/15/06
-Expiration of Second Notice: 1/24/07

Higher Education

15. A Master Plan for Postsecondary Education in Illinois (23 Ill. Adm. Code 1070)
-First Notice Published: 30 Ill. Reg. 16682 – 10/27/06
-Expiration of Second Notice: 1/28/07
16. Tuition and Fee Waiver Guidelines (23 Ill. Adm. Code 1075)
-First Notice Published: 30 Ill. Reg. 16688 – 10/27/06
-Expiration of Second Notice: 1/28/07
17. Nursing School Grant Program (23 Ill. Adm. Code 1100)
-First Notice Published: 30 Ill. Reg. 16699 – 10/27/06
-Expiration of Second Notice: 2/2/07

Human Services

18. Universal Newborn Hearing Screening Program (89 Ill. Adm. Code 504)
-First Notice Published: 30 Ill. Reg. 12694 – 7/28/06
-Expiration of Second Notice: 1/10/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

Natural Resources

19. The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)
-First Notice Published: 30 Ill. Reg. 16552 – 10/20/06
-Expiration of Second Notice: 2/2/07

Public Health

20. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
-First Notice Published: 30 Ill. Reg. 14758 – 9/15/06
-Expiration of Second Notice: 1/28/07

Secretary of State

21. Procedures and Standards (92 Ill. Adm. Code 1001)
-First Notice Published: 30 Ill. Reg. 13757 – 8/18/06
-Expiration of Second Notice: 1/10/07
22. Certificates of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)
-First Notice Published: 30 Ill. Reg. 11531 – 7/7/06
-Expiration of Second Notice: 1/25/07
23. Issuance of Licenses (92 Ill. Adm. Code 1030)
-First Notice Published: 30 Ill. Reg. 11334 – 6/30/06
-Expiration of Second Notice: 1/31/07
24. Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)
-First Notice Published: 30 Ill. Reg. 13846 – 8/18/06
-Expiration of Second Notice: 1/31/07

EMERGENCY RULEMAKINGS

Healthcare and Family Services

25. Medical Payment (89 Ill. Adm. Code 140) (Emergency)
-Notice Published: 30 Ill. Reg. 19400 – 12/15/06
26. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153) (Emergency)
-Notice Published: 30 Ill. Reg. 18779 – 12/1/06

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

PEREMPTORY RULEMAKING

Central Management Services

27. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 30 Ill. Reg. 18823 – 12/8/06

AGENCY RESPONSE

Financial and Professional Regulation

28. Medical Liability Insurance Rules and Rate Filings (50 Ill. Adm. Code 929; 30 Ill. Reg. 1702)

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 December 27, 2006 through January 2, 2007 and have been scheduled for review by the Committee at its February 6, 2007 meeting in Springfield. 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.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
2/9/07	<u>Department of Central Management Services, Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities (44 Ill. Adm. Code 10)</u>	10/13/06 30 Ill. Reg. 16106	2/6/07

PROCLAMATIONS

2006-414**CRIME STOPPERS OF LAKE COUNTY MONTH**

WHEREAS, Crime Stoppers of Lake County was formed in 1983 and is a community program comprised of concerned citizens who work closely with police authorities, the news media, and the public in the fight against crime in Lake County and surrounding communities; and

WHEREAS, Crime Stoppers does that by offering cash rewards to anyone who provides information that leads to the arrest of felony crime offenders or the capture of felony fugitives. Informants always remain anonymous, and cash rewards are funded primarily by private contributions; and

WHEREAS, thanks to Crime Stoppers, there have been more than 4,900 criminal arrests throughout Lake County, Northern Illinois, and Wisconsin since the program's inception in 1983. Altogether, more than \$19 million worth of contraband and stolen property has been seized; and

WHEREAS, the success of Crime Stoppers would not be possible without the support of everyone in the community. Consequently, Crime Stoppers also promotes the importance of reporting suspicious behavior and criminal activity; and

WHEREAS, to support their wonderful mission, Crime Stoppers of Lake County will raise money and sponsor events designed to raise awareness during the month of January:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 2007 as **CRIME STOPPERS OF LAKE COUNTY MONTH** in Illinois in recognition of their terrific program, and encourage all citizens to help keep their communities safe and free of crime.

Issued by the Governor on December 20, 2006.

Filed by the Secretary of State December 26, 2006.

2006-415**CERVICAL CANCER AWARENESS MONTH**

WHEREAS, January is recognized as Cervical Cancer Awareness Month, an observance that promotes education about cervical cancer screenings, treatment, and causes; and

WHEREAS, in 2007, an estimated 640 Illinois women will be diagnosed with cervical cancer, and an estimated 200 Illinois women will die from the disease; and

PROCLAMATIONS

WHEREAS, most deaths from cervical cancer could be avoided if women had regular checkups with the Pap test. If detected early, cervical cancer is nearly 100 percent curable; and

WHEREAS, by working together and supporting events such as the Cervical Cancer Awareness Month, we can educate women about the importance of cervical cancer screening; and

WHEREAS, public and private organizations within the state of Illinois and local and state government agencies are encouraged to observe the month of January of 2007 as Cervical Cancer Awareness Month in Illinois, by emphasizing and supporting a public awareness program on the importance of women's health issues, specifically, cervical health:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 2007 as **CERVICAL CANCER AWARENESS MONTH** in Illinois, and encourage all citizens to join in the continued fight against this disease.

Issued by the Governor on December 20, 2006.

Filed by the Secretary of State December 26, 2006.

2006-416

Reverend Leroy Smith, Jr.

WHEREAS, the Jesus Cares Outreach center was started in 1984 with two couples ministering to people on the streets of Decatur, Illinois with hot beverages and prayer; and

WHEREAS, Reverend Leroy Smith, Jr. is the current leader of the Jesus Cares Outreach center. Under his leadership, many donations of cash and property have allowed the center to expand in order to help people in their time of need; and

WHEREAS, today, Jesus Cares Outreach serves community members on Decatur's near north side through church services, school-age programming, homeless shelters, and classes at Richland Community College. They also have a plan for an art and music program for youth and an education and job training program for prison parolees; and

WHEREAS, among many other programs and achievements, Rev. Smith has been working with youth in crime, drug, and gang prevention programs which have been very successful in the Decatur and Springfield areas for many years; and

PROCLAMATIONS

WHEREAS, due to the care and dedication of Reverend Leroy Smith, Jr., the Jesus Cares Outreach has been able to improve communities and make them safer for the people who live in them:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby honor and commend Reverend Leroy Smith, Jr. for his work through the Jesus Cares Outreach street ministry.

Issued by the Governor on December 22, 2006.

Filed by the Secretary of State December 26, 2006.

2006-417

Dr. David L. Chicoine

WHEREAS, Dr. David L. Chicoine has dedicated 35 years of service to the University of Illinois, and at the end of the year, he will be leaving U of I to begin his new position as President of South Dakota State University; and

WHEREAS, Dr. Chicoine is originally from South Dakota, where he graduated from South Dakota State University with a Bachelor of Science degree, and received a Master of Science degree from the University of Delaware and a Master of Arts from Western Illinois University. He then went on to earn his Ph.D. from the University of Illinois; and

WHEREAS, Dr. Chicoine has served the University of Illinois as an advisor in the University of Illinois Extension for Western Illinois, professor of agricultural economics and professor in the Institute of Government and Public Affairs, department head, then dean in the College of Agricultural, Consumer, and Environmental Sciences at the University of Illinois at Urbana-Champaign, as the University's Vice President for Technology and Economic Development, and as the interim Vice President for Academic Affairs; and

WHEREAS, among his many different duties, most recently Dr. Chicoine has been the University's senior officer and advisor to the President and the Board on technology commercialization and economic development issues and initiatives, including intellectual property management and start-up businesses and other matters of technology transfer, and business and economic development; and

WHEREAS, in the State of Illinois, Dr. Chicoine has served on many different commissions and groups, consulting and advising on issues such as taxes, farmland property tax assessment, and other public finance and rural economic issues with members of

PROCLAMATIONS

the Illinois General Assembly, business organizations, taxpayer groups, and public agencies; and

WHEREAS, Dr. Chicoine is married to Marcia, and together they will move back to South Dakota in 2007 and begin their new roles as President and First Lady at their alma mater, South Dakota State University:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby honor and recognize David L. Chicoine for his 35 years of service to the University of Illinois and to this great State, and wish him continued success in his future endeavors.

Issued by the Governor on December 22, 2006.

Filed by the Secretary of State December 26, 2006.

2006-418**PRESIDENT GERALD R. FORD**

WHEREAS, the Honorable Gerald Ford, 38th President of the United States of America, passed away on December 26, 2006 at the age of 93; and

WHEREAS, Gerald Rudolph Ford was born on July 14, 1913 in Omaha, Nebraska. He attended high school in Grand Rapids, Michigan and went on to major in economics and political science at the University of Michigan, where he also played on the football team. He later attended Yale Law, and in 1941, he graduated in the top 25 percent of his class; and

WHEREAS, upon graduating law school, Ford answered his call to duty after the attack on Pearl Harbor and served honorably for his country during World War II; and

WHEREAS, following his return from the War, Ford became active in politics, and was elected to the United States House of Representatives in 1948 by a wide margin. He served in the House of Representatives from 1949 to 1973, being reelected 12 times; and

WHEREAS, in 1973, President Richard Nixon chose Ford to become his vice president after Spiro Agnew resigned from the office, and then on August 9, 1974, he took the oath of office as President of the United States after the resignation of Nixon; and

WHEREAS, among President Ford's notable accomplishments while in office, he held the first White House Summit on economy, helping to curb inflation and allowing businesses to run more freely by reducing taxes. In the foreign affairs arena, Ford worked hard to ensure that the United States continued to hold power after the

PROCLAMATIONS

collapse of Cambodia and South Vietnam, and was instrumental in the arms negotiations with Soviet leaders, and

WHEREAS, in 1976, President Ford won the Republican nomination for the Presidency but lost in the general election to Jimmy Carter, and

WHEREAS, after leaving office, Ford continued to participate in the political process and spoke across the country on various issues. Meanwhile, Mrs. Betty Ford opened the Betty Ford Center in 1982, which helps men and women recover from alcoholism and other drug related problems. In 1999, President and Mrs. Ford were awarded the Congressional Gold Medal for dedicated public service and outstanding humanitarian contributions, and

WHEREAS, President Ford is remembered for his great character and integrity, and for restoring the public's trust in the Office of the President. His passing will be mourned not only by his surviving family, but by people all throughout this great country and across the globe. Illinois is humbled to join in celebrating the life of this compassionate and dedicated public servant:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby honor the life and death of **PRESIDENT GERALD R. FORD**, and order the flag of the United States of America to fly at half-staff at all state facilities from December 27 until his day of interment.

Issued by the Governor December 27, 2006.

Filed with the Secretary of State December 27, 2006.

2006-418 (Revised)
PRESIDENT GERALD R. FORD

WHEREAS, the Honorable Gerald Ford, 38th President of the United States of America, passed away on December 26, 2006 at the age of 93; and

WHEREAS, Gerald Rudolph Ford was born on July 14, 1913 in Omaha, Nebraska. He attended high school in Grand Rapids, Michigan and went on to major in economics and political science at the University of Michigan, where he also played on the football team. He later attended Yale Law, and in 1941, he graduated in the top 25 percent of his class; and

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PROCLAMATIONS

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THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby honor the life and death of **PRESIDENT GERALD R. FORD**, and order the flag of the United States of America to fly at half-staff at all state facilities for a period of thirty days from the day of his death.

Issued by the Governor December 27, 2006.

Filed with the Secretary of State December 27, 2006.

2006-419

PAUL BRIAN DAY

PROCLAMATIONS

WHEREAS, veteran broadcaster Paul Brian's "Drive Chicago" focuses on the local, national and international automotive scene, featuring industry news and newsmakers, product reviews and, of course, a flurry of questions from listeners wanting to get the straight story about the automotive industry; and

WHEREAS, after starting on WMAQ and then airing Saturdays with Jake Hartford on WLS Radio for the past 6 years, Brian's show was recognized in 1998 and 1999 as the nation's best automotive program by the International Automotive Media Association; and

WHEREAS, Brian recognizes that in the Chicago area alone, new car sales account for more than \$16.5 billion in gross sales which leads to countless questions about the automotive field that he addresses in an informative and entertaining manner; and

WHEREAS, Brian has served as communications director and spokesman for the Chicago Automobile Trade Association and producer of the mammoth annual Chicago Auto Show at McCormick Place for the past seven years; and

WHEREAS, in that capacity, Brian is responsible for coordinating thousands of domestic and international media who arrive to view the nation's largest auto exposition. He is also the recipient of two "Emmy" awards from the Academy of Television Arts and Science for his production of television specials featuring the Chicago Auto Show; and

WHEREAS, Brian's history in the automotive industry includes a three-year stint managing the Alfa Romeo Indy Car Team based in Milan, Italy, with drivers Danny Sullivan, Roberto Guerrero and Al Unser, Sr.; and,

WHEREAS, Brian has been called the "John Madden of Indy Cars" and performs track announcing duties for the Milwaukee, Elkhart Lake, Houston, St. Louis and Chicago events in the CART Championship Circuit;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 30, 2006 as **PAUL BRIAN DAY** in Illinois in recognition of Paul Brian's dedicated commitment for the past 10 years to the safety and well-being of the automotive consumers and people of Illinois.

Issued by the Governor December 28, 2006.

Filed by the Secretary of State December 28, 2006.

ILLINOIS ADMINISTRATIVE CODE

Issue Index - With Effective Dates

Rules acted upon in Volume 31, Issue 2 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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