**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), 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);

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), 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);

ii) There is reasonable likelihood that the owner or operator will recommence operation of the hazardous waste management unit or facility within one year; and

iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

2) The owner and operator have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility including compliance with all applicable permit requirements.

c) The demonstration referred to in subsections (a)(1) and (b)(1) must be made as follows:

1) The demonstration in subsection (a)(1) must be made at least 30 days prior to the expiration of the 90-day period in subsection (a); and

2) The demonstration in subsection (b)(1) must be made at least 30 days prior to the expiration of the 180-day period in subsection (b), unless the owner or operator is otherwise subject to deadlines in subsection (d).

d) Continued Receipt of Non-Hazardous Waste. The Agency must permit an owner or operator to receive only non-hazardous wastes in a landfill, land treatment unit, or surface impoundment unit after the final receipt of hazardous wastes at that unit if the following is true:

1) The owner or operator requests a permit modification in compliance with all applicable requirements in 35 Ill. Adm. Code 702, 703, and 705, and in the permit modification request demonstrates the following:

A) That the unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes;

B) That there is a reasonable likelihood that the owner or operator or another person will receive non-hazardous wastes in the unit within one year after the final receipt of hazardous wastes;

C) That the non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility pursuant to this Part;

D) That closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and

E) That the owner or operator is operating and will continue to operate in compliance with all applicable permit requirements;

2) The request to modify the permit includes an amended waste analysis plan, groundwater monitoring and response program, human exposure assessment required pursuant to 35 Ill. Adm. Code 703.186, and closure and post-closure plans and updated cost estimates and demonstrations of financial assurance for closure and post-closure care, as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes, and changes in closure activities, including the expected year of closure if applicable pursuant to Section 724.212(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes;

3) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

4) The request to modify the permit and the demonstrations referred to in subsections (d)(1) and (d)(2) 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), an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements in Section 724.321(c), (d), or (e) must receive non-hazardous wastes only as authorized by an adjusted standard pursuant to this subsection (e).

1) The petition for adjusted standard must include the following:

A) A plan for removing hazardous wastes; and

B) A contingent corrective measures plan.

2) The removal plan must provide for the following:

A) Removing all hazardous liquids; and

B) Removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any; and

C) Removal of hazardous wastes no later than 90 days after the final receipt of hazardous wastes. The Board will allow a longer time, if the owner or operator demonstrates the following:

i) That the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete; and

ii) That an extension will not pose a threat to human health and the environment.

3) The following requirements apply to the contingent corrective measures plan:

A) It must meet the requirements of a corrective action plan pursuant to Section 724.199, based upon the assumption that a release has been detected from the unit.

B) It may be a portion of a corrective action plan previously submitted pursuant to Section 724.199.

C) It may provide for continued receipt of non-hazardous wastes at the unit following a release only if the owner or operator demonstrates that continued receipt of wastes will not impede corrective action.

D) It must provide for implementation within one year after a release, or within one year after the grant of the adjusted standard, whichever is later.

4) Definition of "Release." A release is defined as a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters or constituents specified in the permit, or over the facility's groundwater protection standard at the or over the facility's groundwater protection standard at the point of compliance, if applicable, detected in accordance with the requirements in Subpart F.

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). 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).

i) Begin to implement that corrective measures plan in less than one year; or

ii) Cease the receipt of wastes until the plan has been implemented.

B) The owner or operator must implement the contingent corrective measures plan.

C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.

6) Annual Report. During the period of corrective action, the owner or operator must provide annual reports to the Agency that do the following:

A) They must describe the progress of the corrective action program;

B) They must compile all groundwater monitoring data; and

C) They must evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

7) Required Closure. The owner or operator must commence closure of the unit in accordance with the closure plan and the requirements of this Part if the Board terminates the adjusted standard, or if the adjusted standard terminates pursuant to its terms.

A) The Board will terminate the adjusted standard if the owner or operator failed to implement corrective action measures in accordance with the approved contingent corrective measures plan.

B) The Board will terminate the adjusted standard if the owner or operator fails to make substantial progress in implementing the corrective measures plan and achieving the facility's groundwater protection standard, or background levels if the facility has not yet established a groundwater protection standard.

C) The adjusted standard will automatically terminate if the owner or operator fails to implement the removal plan.

D) The adjusted standard will automatically terminate if the owner or operator fails to timely file a required petition for adjusted standard.

8) Adjusted Standard Procedures. The following procedures must be used in granting, modifying or terminating an adjusted standard pursuant to this subsection (e).

A) Except as otherwise provided, the owner or operator must follow the procedures of Section 28.1 of the Act and 35 Ill. Adm. Code 101 and 104 to petition the Board for an adjusted standard.

B) Initial justification. The Board will grant an adjusted standard pursuant to subsection (e)(1) 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).

C) The Board will include the following conditions in granting an adjusted standard pursuant to subsection (e)(1):

i) A plan for removing hazardous wastes.

ii) A requirement that the owner or operator remove hazardous wastes in accordance with the plan.

iii) A contingent corrective measures plan.

iv) A requirement that, in the event of a release, the owner or operator must do as follows: within 35 days, file with the Board a petition for adjusted standard; implement the corrective measures plan; and, file semi-annual reports with the Agency.

v) A condition that the adjusted standard will terminate if the owner or operator fails to do as follows: implement the removal plan; or timely file a required petition for adjusted standard.

vi) A requirement that, in the event the adjusted standard is terminated, the owner or operator must commence closure of the unit in accordance with the requirements of the closure plan and this Part.

D) Justification in the Event of a Release. The Board will modify or terminate the adjusted standard pursuant to a petition filed pursuant to subsection (e)(5)(A), as provided in that subsection or in subsection (e)(7).

9) The Agency must modify the RCRA permit to include the adjusted standard.

10) The owner or operator may file a permit modification application with a revised closure plan within 15 days after an adjusted standard is terminated.

(Source: Amended at 42 Ill. Reg. 22614, effective November 19, 2018)