**Section 725.355 Action Leakage Rates**

a) The owner or operator of waste pile units subject to Section 725.354 must submit a proposed action leakage rate to the Agency when submitting the notice required under Section 725.354. Within 60 days after receipt of the notification, the Agency must either establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or it must extend the review period for up to 30 days. If no action is taken by the Agency before the original 60 or extended 90 day review period, the action leakage rate must be approved as proposed by the owner or operator.

b) The Agency must approve an action leakage rate for waste pile units subject to Section 725.354. The action leakage rate is the maximum design flow rate that the LDS can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material, etc.), construction, operation, and location of the LDS; waste and leachate characteristics; the likelihood and amounts of other sources of liquids in the LDS; and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover, and creep of synthetic components of the system; overburden pressures; etc.).

c) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly flow rate from the monitoring data obtained under Section 725.360, to an average daily flow rate (gallons per acre per day) for each sump. The average daily flow rate for each sump must be calculated weekly during the active life and closure period.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act.

(Source: Amended at 42 Ill. Reg. 23725, effective November 19, 2018)