**Section 725.321 Design and Operating Requirements**

a) The owner or operator of each new surface impoundment unit, each lateral expansion of a surface impoundment unit, and each replacement of an existing surface impoundment unit must install two or more liners and a leachate collection and removal system between such liners, and operate the leachate collection and removal system, in accordance with 35 Ill. Adm. Code 724.321(c), unless exempted under 35 Ill. Adm. Code 724.321(d), (e), or (f).

b) The owner or operator of each unit referred to in subsection (a) must notify the Agency at least sixty days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part B application within six months of the receipt of such notice.

c) The owner or operator of any replacement surface impoundment unit is exempt from subsection (a) if the following conditions are fulfilled:

1) The existing unit was constructed in compliance with the design standards of 35 Ill. Adm. Code 724.321(c), (d), and (e); and

BOARD NOTE: The cited subsections implemented the design standards of sections 3004(o)(1)(A)(i) and (o)(5) of RCRA (42 USC 6924(o)(1)(A)(i) and (o)(5)).

2) There is no reason to believe that the liner is not functioning as designed.

d) The Agency must not require a double liner as set forth in subsection (a) for any monofill, if the following conditions are fulfilled:

1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents that render the wastes hazardous for reasons other than the toxicity characteristic in 35 Ill. Adm. Code 721.124, with USEPA hazardous waste numbers D004 through D017; and

2) No Migration Demonstration

A) Design and Location Requirements

i) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of this subsection (d)(2)(A)(i) the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, groundwater, or surface water at any time during the active life of the facility. In the case of any surface impoundment that has been exempted from the requirements of subsection (a), of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of such impoundment the owner or operator must remove or decontaminate all waste residues, all contaminated liner material and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment must comply with appropriate post-closure requirements, including but not limited to groundwater monitoring and corrective action;

ii) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in 35 Ill. Adm. Code 702.110); and

iii) The monofill is in compliance with generally applicable groundwater monitoring requirements for facilities with RCRA permits; or

B) The owner or operator demonstrates to the Board that the monofill is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

e) In the case of any unit in which the liner and leachate collection system have been installed pursuant to the requirements of subsection (a), and in good faith compliance with subsection (a) and with guidance documents governing liners and leachate collection systems under subsection (a), the Agency must not require a liner or leachate collection system that is different from that which was so installed pursuant to subsection (a) when issuing the first permit to such facility, except that the Agency is not precluded from requiring installation of a new liner when the Agency finds that any liner installed pursuant to the requirements of subsection (a) is leaking.

f) A surface impoundment must maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action, or a storm. Except as provided in subsection (g), there must be at least 60 centimeters (two feet) of freeboard.

g) A freeboard level less than 60 centimeters (two feet) may be maintained if the owner or operator obtains certification by a qualified engineer that alternate design features or operating plans will, to the best of the engineer's knowledge and opinion, prevent overtopping of the dike. The certification, along with a written identification of alternate design features or operating plans preventing overtopping, must be maintained at the facility.

BOARD NOTE: Any point source discharge from a surface impoundment to waters of the State is subject to the requirements of Section 12 of the Environmental Protection Act. Spills may be subject to Section 311 of the Clean Water Act (33 USC 1321).

h) Surface impoundments that are newly subject to this Part due to the promulgation of additional listings or characteristics for the identification of hazardous waste must be in compliance with subsections (a), (c), or (d) not later than 48 months after the promulgation of the additional listing or characteristic. This compliance period must not be cut short as the result of the promulgation of land disposal prohibitions under 35 Ill. Adm. Code 728 or the granting of an extension to the effective date of a prohibition pursuant to 35 Ill. Adm. Code 728.105, within this 48 month period.

i) Refusal to grant an exemption or waiver, or grant with conditions, may be appealed to the Board.

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