

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Land Disposal Restrictions
- 2) Code Citation: 35 Ill. Adm. Code 728
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
728.101	Amendment
728.107	Amendment
728.150	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendment to Part 728 are a single segment of consolidated docket R20-3/R20-11 rulemaking that also affects 35 Ill. Adm. Code 702, 705, 720 through 726, 733, 810, and 811. The consolidated R20-3/R20-11 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during 2019. A comprehensive description is contained in the Board's opinion and order of May 21, 2020, proposing amendments in consolidated docket R20-3/R20-11, which opinion and order is available from the address below.

The Notice of Proposed Amendments for 35 Ill. Adm. Code 702, which also appears in this issue of the *Illinois Register* summarizes the broader rulemaking that is consolidated docket R20-3/R20-11. The Board directs attention to that Notice for elaboration.

Specifically, the amendments to Part 728 incorporate segments of USEPA's Hazardous Waste Pharmaceuticals Rule and Universal Waste Aerosol Cans Rule into the Illinois hazardous waste regulations. The amendments include a needed correction in rule not directly related to USEPA amendments.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R20-3/R20-11. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R20-3/R20-11.

Sections 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Land Disposal Restrictions
- 2) Code Citation: 35 Ill. Adm. Code 728
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
728.101	Amendment
728.107	Amendment
728.150	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendment to Part 728 are a single segment of consolidated docket R20-3/R20-11 rulemaking that also affects 35 Ill. Adm. Code 702, 705, 720 through 726, 733, 810, and 811. The consolidated R20-3/R20-11 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during 2019. A comprehensive description is contained in the Board's opinion and order of May 21, 2020, proposing amendments in consolidated docket R20-3/R20-11, which opinion and order is available from the address below.

The Notice of Proposed Amendments for 35 Ill. Adm. Code 702, which also appears in this issue of the *Illinois Register* summarizes the broader rulemaking that is consolidated docket R20-3/R20-11. The Board directs attention to that Notice for elaboration.

Specifically, the amendments to Part 728 incorporate segments of USEPA's Hazardous Waste Pharmaceuticals Rule and Universal Waste Aerosol Cans Rule into the Illinois hazardous waste regulations. The amendments include a needed correction in rule not directly related to USEPA amendments.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R20-3/R20-11. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R20-3/R20-11.

Sections 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R20-3/R20-11 and be addressed to:

Don A. Brown, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R20-3/R20-11:

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

Chicago IL 60601
312/814-6924
michael.mccambridge@illinois.gov

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Land Disposal Restrictions
- 2) Code Citation: 35 Ill. Adm. Code 728
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
728.101	Amendment
728.107	Amendment
728.150	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendment to Part 728 are a single segment of consolidated docket R20-3/R20-11 rulemaking that also affects 35 Ill. Adm. Code 702, 705, 720 through 726, 733, 810, and 811. The consolidated R20-3/R20-11 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during 2019. A comprehensive description is contained in the Board's opinion and order of May 21, 2020, proposing amendments in consolidated docket R20-3/R20-11, which opinion and order is available from the address below.

The Notice of Proposed Amendments for 35 Ill. Adm. Code 702, which also appears in this issue of the *Illinois Register* summarizes the broader rulemaking that is consolidated docket R20-3/R20-11. The Board directs attention to that Notice for elaboration.

Specifically, the amendments to Part 728 incorporate segments of USEPA's Hazardous Waste Pharmaceuticals Rule and Universal Waste Aerosol Cans Rule into the Illinois hazardous waste regulations. The amendments include a needed correction in rule not directly related to USEPA amendments.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R20-3/R20-11. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R20-3/R20-11.

Sections 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R20-3/R20-11 and be addressed to:

Don A. Brown, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R20-3/R20-11:

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

Chicago IL 60601
312/814-6924
michael.mccambridge@illinois.gov

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's Website at pcb.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
 - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
 - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Small Business Impact Analysis: Sections 1-5(c) and 5-30 of the Administrative Procedure Act [5 ILCS 100/1-5(c) and 5-30] provide that small business impact analysis and related requirements under Section 5-30 do not apply to this type of identical-in-substance rulemaking.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2020

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

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE G: WASTE DISPOSAL
3 CHAPTER I: POLLUTION CONTROL BOARD
4 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS
5

6 PART 728
7 LAND DISPOSAL RESTRICTIONS
8

9 SUBPART A: GENERAL
10

11 Section

- 12 728.101 Purpose, Scope, and Applicability
13 728.102 Definitions
14 728.103 Dilution Prohibited as a Substitute for Treatment
15 728.104 Treatment Surface Impoundment Exemption
16 728.105 Procedures for Case-by-Case Extensions to an Effective Date
17 728.106 Petitions to Allow Land Disposal of a Waste Prohibited Pursuant to Subpart C
18 728.107 Testing, Tracking, and Recordkeeping Requirements for Generators, Reverse
19 Distributors, Treaters, and Disposal Facilities
20 728.108 Landfill and Surface Impoundment Disposal Restrictions (Repealed)
21 728.109 Special Rules for Characteristic Wastes
22

23 SUBPART B: SCHEDULE FOR LAND DISPOSAL PROHIBITION AND
24 ESTABLISHMENT OF TREATMENT STANDARDS
25

26 Section

- 27 728.110 First Third (Repealed)
28 728.111 Second Third (Repealed)
29 728.112 Third Third (Repealed)
30 728.113 Newly Listed Wastes
31 728.114 Surface Impoundment Exemptions
32

33 SUBPART C: PROHIBITION ON LAND DISPOSAL
34

35 Section

- 36 728.120 Waste-Specific Prohibitions: Dyes and Pigments Production Wastes
37 728.130 Waste-Specific Prohibitions: Wood Preserving Wastes
38 728.131 Waste-Specific Prohibitions: Dioxin-Containing Wastes
39 728.132 Waste-Specific Prohibitions: Soils Exhibiting the Toxicity Characteristic for
40 Metals and Containing PCBs
41 728.133 Waste-Specific Prohibitions: Chlorinated Aliphatic Wastes
42 728.134 Waste-Specific Prohibitions: Toxicity Characteristic Metal Wastes
43 728.135 Waste-Specific Prohibitions: Petroleum Refining Wastes

44	728.136	Waste-Specific Prohibitions: Inorganic Chemical Wastes
45	728.137	Waste-Specific Prohibitions: Ignitable and Corrosive Characteristic Wastes
46		Whose Treatment Standards Were Vacated
47	728.138	Waste-Specific Prohibitions: Newly-Identified Organic Toxicity Characteristic
48		Wastes and Newly-Listed Coke By-Product and Chlorotoluene Production Wastes
49	728.139	Waste-Specific Prohibitions: Spent Aluminum Potliners and Carbamate Wastes

SUBPART D: TREATMENT STANDARDS

53	Section	
54	728.140	Applicability of Treatment Standards
55	728.141	Treatment Standards Expressed as Concentrations in Waste Extract
56	728.142	Treatment Standards Expressed as Specified Technologies
57	728.143	Treatment Standards Expressed as Waste Concentrations
58	728.144	USEPA Variance from a Treatment Standard
59	728.145	Treatment Standards for Hazardous Debris
60	728.146	Alternative Treatment Standards Based on HTMR
61	728.148	Universal Treatment Standards
62	728.149	Alternative LDR Treatment Standards for Contaminated Soil

SUBPART E: PROHIBITIONS ON STORAGE

66	Section	
67	728.150	Prohibitions on Storage of Restricted Wastes
68		
69	728.APPENDIX A	Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)
70	728.APPENDIX B	Treatment Standards (As concentrations in the Treatment Residual
71		Extract) (Repealed)
72	728.APPENDIX C	List of Halogenated Organic Compounds Regulated under Section
73		728.132
74	728.APPENDIX D	Wastes Excluded from Lab Packs
75	728.APPENDIX E	Organic Lab Packs (Repealed)
76	728.APPENDIX F	Technologies to Achieve Deactivation of Characteristics
77	728.APPENDIX G	Federal Effective Dates
78	728.APPENDIX H	National Capacity LDR Variances for UIC Wastes
79	728.APPENDIX I	EP Toxicity Test Method and Structural Integrity Test
80	728.APPENDIX J	Recordkeeping, Notification, and Certification Requirements (Repealed)
81	728.APPENDIX K	Metal-Bearing Wastes Prohibited from Dilution in a Combustion Unit
82		According to Section 728.103(c)
83	728.TABLE A	Constituent Concentrations in Waste Extract (CCWE)
84	728.TABLE B	Constituent Concentrations in Wastes (CCW)
85	728.TABLE C	Technology Codes and Description of Technology-Based Standards
86	728.TABLE D	Technology-Based Standards by USEPA Hazardous Waste Number

87 728.TABLE E Standards for Radioactive Mixed Waste
 88 728.TABLE F Alternative Treatment Standards for Hazardous Debris
 89 728.TABLE G Alternative Treatment Standards Based on HTMR
 90 728.TABLE H Wastes Excluded from CCW Treatment Standards
 91 728.TABLE I Generator Paperwork Requirements
 92 728.TABLE T Treatment Standards for Hazardous Wastes
 93 728.TABLE U Universal Treatment Standards (UTS)
 94

95 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the
 96 Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].
 97

98 SOURCE: Adopted in R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in
 99 R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403,
 100 effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990;
 101 amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill.
 102 Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective
 103 June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment
 104 withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619,
 105 effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993;
 106 amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18
 107 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July
 108 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in
 109 R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100,
 110 effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective
 111 December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7685, effective April 15, 1998; amended
 112 in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17706, effective September 28, 1998; amended in R98-
 113 21/R99-2/R99-7 at 23 Ill. Reg. 1964, effective January 19, 1999; amended in R99-15 at 23 Ill.
 114 Reg. 9204, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9623, effective June 20,
 115 2000; amended in R01-3 at 25 Ill. Reg. 1296, effective January 11, 2001; amended in R01-
 116 21/R01-23 at 25 Ill. Reg. 9181, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26
 117 Ill. Reg. 6687, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 13045, effective July
 118 17, 2003; amended in R05-8 at 29 Ill. Reg. 6049, effective April 13, 2005; amended in R06-
 119 5/R06-6/R06-7 at 30 Ill. Reg. 3800, effective February 23, 2006; amended in R06-16/R06-
 120 17/R06-18 at 31 Ill. Reg. 1254, effective December 20, 2006; amended in R07-5/R07-14 at 32
 121 Ill. Reg. 12840, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1186, effective
 122 December 30, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 18131, effective October 14,
 123 2011; amended in R12-7 at 36 Ill. Reg. 8790, effective June 4, 2012; amended in R13-15 at 37
 124 Ill. Reg. 17951, effective October 24, 2013; amended in R16-7 at 40 Ill. Reg. 12052, effective
 125 August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 24924, effective
 126 November 19, 2018; amended in R20-3/R20-11 at 44 Ill. Reg. _____, effective _____.
 127

128 SUBPART A: GENERAL
 129

130 **Section 728.101 Purpose, Scope, and Applicability**

131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172

- 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 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 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 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

- 173 pursuant to a permit issued pursuant to 35 Ill. Adm. Code
174 309;
175
176 ii) The waste is treated for purposes of the pretreatment
177 requirements of 35 Ill. Adm. Code 307 and 310; or
178
179 iii) The waste is managed in a zero discharge system engaged
180 in Clean Water Act (CWA)-equivalent treatment, as
181 defined in Section 728.137(a); and
182
183 B) The waste no longer exhibits a prohibited characteristic of
184 hazardous waste at the point of land disposal (i.e., placement in a
185 surface impoundment).
186
187 d) This Part does not affect the availability of a waiver pursuant to Section 121(d)(4)
188 of the federal Comprehensive Environmental Response, Compensation, and
189 Liability Act of 1980 (CERCLA) (42 USC 9621(d)(4)).
190
191 e) The following hazardous wastes are not subject to any provision of this Part:
192
193 1) Waste generated by a VSQG, as defined in 35 Ill. Adm. Code 720.110;
194
195 2) Waste pesticide that a farmer disposes of pursuant to 35 Ill. Adm. Code
196 722.170;
197
198 3) Waste identified or listed as hazardous after November 8, 1984, for which
199 USEPA has not promulgated a land disposal prohibition or treatment
200 standard; and
201
202 4) De minimis losses of waste that exhibits a characteristic of hazardous
203 waste to wastewaters are not considered to be prohibited waste and are
204 defined as losses from normal material handling operations (e.g., spills
205 from the unloading or transfer of materials from bins or other containers or
206 leaks from pipes, valves, or other devices used to transfer materials);
207 minor leaks of process equipment, storage tanks, or containers; leaks from
208 well-maintained pump packings and seals; sample purgings; relief device
209 discharges; discharges from safety showers and rinsing and cleaning of
210 personal safety equipment; rinsate from empty containers or from
211 containers that are rendered empty by that rinsing; and laboratory waste
212 that does not exceed one percent of the total flow of wastewater into the
213 facility's headworks on an annual basis, or with a combined annualized
214 average concentration not exceeding one part per million (ppm) in the
215 headworks of the facility's wastewater treatment or pretreatment facility.

216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258

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 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, as described in 35 Ill. Adm. Code 733.104; ~~and~~
- 4) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~
- 5) Aerosol cans, as described in 35 Ill. Adm. Code 733.106.

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 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, 271.10(b), 271.11(b), and 271.12(h)-(2017).

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 728.107 Testing, Tracking, and Recordkeeping Requirements for Generators, Reverse Distributors, Treaters, and Disposal Facilities

a) Requirements for Generators and Reverse Distributors

- 1) A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in Section 728.140, 728.145, or 728.149. This determination can be made concurrently with the hazardous waste determination required in 35 Ill. Adm. Code 722.111, in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing determines the total concentration

259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301

of hazardous constituents or the concentration of hazardous constituents in an extract of the waste obtained using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste extract. (Alternatively, the generator must send the waste to a RCRA-permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of 35 Ill. Adm. Code 724.113 and subsection (b).) In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in Section 728.140 and Table T, and are described in detail in Table C. These wastes and soils contaminated with such wastes do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards must be tested). If a generator determines that it is managing a waste or soil contaminated with a waste that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, the generator must comply with the special requirements of Section 728.109 in addition to any applicable requirements in this Section.

- 2) If the waste or contaminated soil does not meet the treatment standard or if the generator chooses not to make the determination of whether its waste must be treated, the generator must send a one-time written notice to each treatment or storage facility receiving the waste with the initial shipment of waste to each treatment or storage facility, and the generator must place a copy of the one-time notice in the file. The notice must include the information in column "728.107(a)(2)" of the Generator Paperwork Requirements Table in Table I. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the USEPA hazardous waste numbers and manifest number of the first shipment, and it must include the following statement: "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.

- 3) If the waste or contaminated soil meets the treatment standard at the original point of generation, the waste generator must do the following:

302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344

- A) With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste, and place a copy in its own file. The notice must include the information indicated in column "728.107(a)(3)" of the Generator Paperwork Requirements Table in Table I and the following certification statement, signed by an authorized representative:

I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in Subpart D of 35 Ill. Adm. Code 728. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

- B) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice must include the information in the column headed "(a)(3)" in Table I.
- C) If the waste changes, the generator must send a new notice and certification to the receiving facility and place a copy in its files. A generator of hazardous debris excluded from the definition of hazardous waste under 35 Ill. Adm. Code 721.103(f) is not subject to these requirements.
- 4) For reporting, tracking and recordkeeping when exceptions allow certain wastes or contaminated soil that do not meet the treatment standards to be land disposed, there are certain exemptions from the requirement that hazardous wastes or contaminated soil meet treatment standards before they can be land disposed. These include, but are not limited to, case-by-case extensions under Section 728.105, disposal in a no-migration unit under Section 728.106, or a national capacity variance or case-by-case capacity variance under Subpart C. If a generator's waste is so exempt, then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information indicated in column "728.107(a)(4)" of the Generator Paperwork Requirements Table in Table I. If the waste changes, the generator must send a new notice to the receiving facility,

345
 346
 347
 348
 349
 350
 351
 352
 353
 354
 355
 356
 357
 358
 359
 360
 361
 362
 363
 364
 365
 366
 367
 368
 369
 370
 371
 372
 373
 374
 375
 376
 377
 378
 379
 380
 381
 382
 383
 384
 385
 386
 387

and place a copy in its file.

- 5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 35 Ill. Adm. Code 722.115, 722.116, and 722.117 to meet applicable LDR treatment standards found at Section 728.140, the generator must develop and follow a written waste analysis plan that describes the procedures it will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table F, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met:
 - A) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited wastes being treated, and contain all information necessary to treat the wastes in accordance with the requirements of this Part, including the selected testing frequency;
 - B) Such plan must be kept in the facility's on-site files and made available to inspectors; and
 - C) Wastes shipped off-site pursuant to this subsection (a)(5) must comply with the notification requirements of subsection (a)(3).

- 6) If a generator determines that the waste or contaminated soil is restricted based solely on its knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines that the waste is restricted based on testing this waste or an extract developed using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, all waste analysis data must be retained on-site in the generator's files.

- 7) If a generator determines that it is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or which is exempt from Subtitle C regulation under 35 Ill. Adm. Code 721.102 through 721.106 subsequent to the point of generation (including deactivated characteristic hazardous wastes that are managed in wastewater treatment systems subject to the CWA, as specified at 35 Ill. Adm. Code 721.104(a)(2); that are CWA-equivalent; or that are managed in an underground injection well regulated under 35 Ill. Adm. Code 730),

388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430

the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from RCRA Subtitle C regulation, and the disposition of the waste in the generating facility's on-site file.

- 8) A generator must retain a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this Section on-site for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested in writing by the Agency. The requirements of this subsection (a)(8) apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under 35 Ill. Adm. Code 721.102 through 721.106, or exempted from RCRA Subtitle C regulation, subsequent to the point of generation.

BOARD NOTE: Any Agency request for extended records retention under this subsection (a)(8) is subject to Board review pursuant to Section 40 of the Act.

- 9) If a generator is managing a lab pack containing hazardous wastes and wishes to use the alternative treatment standard for lab packs found at Section 728.142(c), the generator must fulfill the following conditions:

- A) With the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column "Section 728.107(a)(9)" in the Generator Paperwork Requirements Table of Table I and the following certification. The certification, which must be signed by an authorized representative and must be placed in the generator's files, must say the following:

I certify under penalty of law that I personally have examined and am familiar with the waste and that the lab pack contains only wastes that have not been excluded under Appendix D to 35 Ill. Adm. Code 728 and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at 35 Ill. Adm. Code 728.142(c). I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment.

- 431 B) No further notification is necessary until such time as the wastes in
- 432 the lab pack change, or the receiving facility changes, in which
- 433 case a new notice and certification must be sent and a copy placed
- 434 in the generator's file.
- 435
- 436 C) If the lab pack contains characteristic hazardous wastes (D001-
- 437 D043), underlying hazardous constituents (as defined in Section
- 438 728.102(i)) need not be determined.
- 439
- 440 D) The generator must also comply with the requirements in
- 441 subsections (a)(6) and (a)(7).
- 442

443 10) An SQG with tolling agreements pursuant to 35 Ill. Adm. Code 722.120(e)

444 must comply with the applicable notification and certification

445 requirements of subsection (a) for the initial shipment of the waste subject

446 to the agreement. Such generators must retain on-site a copy of the

447 notification and certification, together with the tolling agreement, for at

448 least three years after termination or expiration of the agreement. The

449 three-year record retention period is automatically extended during the

450 course of any unresolved enforcement action regarding the regulated

451 activity or as requested in writing by the Agency.

452

453 BOARD NOTE: Any Agency request for extended records retention

454 under this subsection (a)(10) is subject to Board review pursuant to

455 Section 40 of the Act.

456

- 457 b) The owner or operator of a treatment facility must test its wastes according to the
- 458 frequency specified in its waste analysis plan, as required by 35 Ill. Adm. Code
- 459 724.113 (for permitted TSDs) or 725.113 (for interim status facilities). Such
- 460 testing must be performed as provided in subsections (b)(1), (b)(2), and (b)(3).
- 461
- 462 1) For wastes or contaminated soil with treatment standards expressed in the
- 463 waste extract (TCLP), the owner or operator of the treatment facility must
- 464 test an extract of the treatment residues using Method 1311 (Toxicity
- 465 Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid
- 466 Waste, Physical/Chemical Methods", USEPA publication number EPA-
- 467 530/SW-846, to assure that the treatment residues extract meets the
- 468 applicable treatment standards.
- 469
- 470 2) For wastes or contaminated soil with treatment standards expressed as
- 471 concentrations in the waste, the owner or operator of the treatment facility
- 472 must test the treatment residues (not an extract of such residues) to assure
- 473 that the treatment residues meet the applicable treatment standards.

474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516

- 3) A one-time notice must be sent with the initial shipment of waste or contaminated soil to the land disposal facility. A copy of the notice must be placed in the treatment facility's file.
 - A) No further notification is necessary until such time that the waste or receiving facility changes, in which case a new notice must be sent and a copy placed in the treatment facility's file.
 - B) The one-time notice must include the following requirements:
 - i) USEPA hazardous waste number and manifest number of first shipment;
 - ii) The waste is subject to the LDRs. The constituents of concern for F001 through F005 and F039 waste and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice;
 - iii) The notice must include the applicable wastewater/nonwastewater category (see Section 728.102(d) and (f)) and subdivisions made within a USEPA hazardous waste numbers based on waste-specific criteria (such as D003 reactive cyanide);
 - iv) Waste analysis data (when available);
 - v) For contaminated soil subject to LDRs as provided in Section 728.149(a), the constituents subject to treatment as described in Section 728.149(d) and the following statement, "this contaminated soil (does/does not) contain listed hazardous waste and (does/does not) exhibit a characteristic of hazardous waste and (is subject to/complies with) the soil treatment standards as provided by Section 728.149(c)"; and
 - vi) A certification is needed (see applicable Section for exact wording).
- 4) The owner or operator of a treatment facility must submit a certification

517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559

signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state as follows:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in 35 Ill. Adm. Code 728.140 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

A certification is also necessary for contaminated soil and it must state as follows:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with treatment standards specified in 35 Ill. Adm. Code 728.149 without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

- A) A copy of the certification must be placed in the treatment facility's on-site files. If the waste or treatment residue changes, or the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the treatment facility's file.
- B) Debris excluded from the definition of hazardous waste under 35 Ill. Adm. Code 721.103(f) (i.e., debris treated by an extraction or destruction technology listed in Table F and debris that the Agency has determined does not contain hazardous waste) is subject to the notification and certification requirements of subsection (d) rather than the certification requirements of this subsection (b)(4).
- C) For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in part or in whole on the analytical detection limit alternative specified in Section 728.140(d), the certification

560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602

must be signed by an authorized representative and must state as follows:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by combustion units as specified in Table C to 35 Ill. Adm. Code 728. I have been unable to detect the nonwastewater organic constituents, despite having used best good faith efforts to analyze for such constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

- D) For characteristic wastes that are subject to the treatment standards in Section 728.140 and Table T (other than those expressed as a required method of treatment) or Section 728.149 and which contain underlying hazardous constituents, as defined in Section 728.102(i); if these wastes are treated on-site to remove the hazardous characteristic; and that are then sent off-site for treatment of underlying hazardous constituents, the certification must state as follows:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.140 and Table T of Section 728.149 of that Part to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

- E) For characteristic wastes that contain underlying hazardous constituents, as defined in Section 728.102(i), that are treated on-site to remove the hazardous characteristic and to treat underlying hazardous constituents to levels in Section 728.148 and Table U universal treatment standards, the certification must state as follows:

603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645

I certify under penalty of law that the waste has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.140 and Table T of that Part to remove the hazardous characteristic and that underlying hazardous constituents, as defined in 35 Ill. Adm. Code 728.102(i), have been treated on-site to meet the universal treatment standards of 35 Ill. Adm. Code 728.148 and Table U of that Part. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

- 5) If the waste or treatment residue will be further managed at a different treatment, storage, or disposal facility, the treatment, storage, or disposal facility that sends the waste or treatment residue off-site must comply with the notice and certification requirements applicable to generators under this Section.
 - 6) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of 35 Ill. Adm. Code 726.120(b), regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) must, for the initial shipment of waste, prepare a one-time certification described in subsection (b)(4) and a notice that includes the information listed in subsection (b)(3) (except the manifest number). The certification and notification must be placed in the facility's on-site files. If the waste or the receiving facility changes, a new certification and notification must be prepared and placed in the on-site files. In addition, the owner or operator of the recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.
- c) Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal pursuant to 35 Ill. Adm. Code 726.120(b), the owner or operator of any land disposal facility disposing any waste subject to restrictions under this Part must do the following:
- 1) Maintain in its files copies of the notice and certifications specified in subsection (a) or (b).
 - 2) Test the waste or an extract of the waste or treatment residue developed using Method 1311 (Toxicity Characteristic Leaching Procedure in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846) to assure that the waste or treatment residue is in compliance with the applicable treatment standards

646 set forth in Subpart D. Such testing must be performed according to the
 647 frequency specified in the facility's waste analysis plan as required by 35
 648 Ill. Adm. Code 724.113 or 35 Ill. Adm. Code 725.113.

649
 650 3) Where the owner or operator is disposing of any waste that is subject to
 651 the prohibitions under Section 728.133(f) but not subject to the
 652 prohibitions set forth in Section 728.132, the owner or operator must
 653 ensure that such waste is the subject of a certification according to the
 654 requirements of Section 728.108 prior to disposal in a landfill or surface
 655 impoundment unit, and that such disposal is in accordance with the
 656 requirements of Section 728.105(h)(2). The same requirement applies to
 657 any waste that is subject to the prohibitions under Section 728.133(f) and
 658 also is subject to the statutory prohibitions in the codified prohibitions in
 659 Section 728.139 or Section 728.132.

660
 661 4) Where the owner or operator is disposing of any waste that is a recyclable
 662 material used in a manner constituting disposal subject to the provisions of
 663 35 Ill. Adm. Code 726.120(b), the owner or operator is not subject to
 664 subsections (c)(1) through (c)(3) with respect to such waste.

665
 666 d) A generator or treater that first claims that hazardous debris is excluded from the
 667 definition of hazardous waste under 35 Ill. Adm. Code 721.103(f) (i.e., debris
 668 treated by an extraction or destruction technology provided by Table F, and debris
 669 that has been delisted) is subject to the following notification and certification
 670 requirements:

671
 672 1) A one-time notification must be submitted to the Agency including the
 673 following information:

674
 675 A) The name and address of the RCRA Subtitle D (municipal solid
 676 waste landfill) facility receiving the treated debris;

677
 678 B) A description of the hazardous debris as initially generated,
 679 including the applicable USEPA hazardous waste numbers; and

680
 681 C) For debris excluded under 35 Ill. Adm. Code 721.103(f)(1), the
 682 technology from Table F used to treat the debris.

683
 684 2) The notification must be updated if the debris is shipped to a different
 685 facility and, for debris excluded under 35 Ill. Adm. Code 721.103(f)(1), if
 686 a different type of debris is treated or if a different technology is used to
 687 treat the debris.

688

689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731

- 3) For debris excluded under 35 Ill. Adm. Code 721.103(f)(1), the owner or operator of the treatment facility must document and certify compliance with the treatment standards of Table F, as follows:
 - A) Records must be kept of all inspections, evaluations, and analyses of treated debris that are made to determine compliance with the treatment standards;
 - B) Records must be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and
 - C) For each shipment of treated debris, a certification of compliance with the treatment standards must be signed by an authorized representative and placed in the facility's files. The certification must state as follows:

I certify under penalty of law that the debris has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.145. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment.

- e) A generator or treater that first receives a determination from USEPA or the Agency that a given contaminated soil subject to LDRs, as provided in Section 728.149(a), no longer contains a listed hazardous waste and a generator or treater that first determines that a contaminated soil subject to LDRs, as provided in Section 728.149(a), no longer exhibits a characteristic of hazardous waste must do the following:
 - 1) Prepare a one-time only documentation of these determinations including all supporting information; and
 - 2) Maintain that information in the facility files and other records for a minimum of three years.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART E: PROHIBITIONS ON STORAGE

Section 728.150 Prohibitions on Storage of Restricted Wastes

- a) Except as provided in this Section, the storage of hazardous wastes restricted from

land disposal under Subpart C is prohibited, unless the following conditions are met:

- 1) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in 35 Ill. Adm. Code 722.116 and 722.117 and 35 Ill. Adm. Code 724 and 725. (A generator that is in existence on the effective date of a regulation under this Part and which must store hazardous wastes for longer than 90 days due to the regulations under this Part becomes an owner or operator of a storage facility and must obtain a RCRA permit, as required by 35 Ill. Adm. Code 703. Such a facility may qualify for interim status upon compliance with the regulations governing interim status under 35 Ill. Adm. Code 703.153.)
- 2) An owner or operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and each of the following conditions are fulfilled:
 - A) Each container is clearly marked with the following to identify:
 - i) The words "Hazardous Waste";
 - ii) The applicable USEPA hazardous waste numbers in Subparts C and D of 35 Ill. Adm. Code 721; or use a nationally recognized electronic system, such as bar coding, to identify the USEPA hazardous waste numbers;
 - iii) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with subpart E (Labeling) or subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200, incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111); and
 - iv) The date each period of accumulation begins.

775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817

- B) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received and the date each period of accumulation begins, or such information is recorded and maintained in the operating record at the facility. Regardless of whether the tank itself is marked, the owner and operator must comply with the operating record requirements of 35 Ill. Adm. Code 724.173 or 725.173.
- 3) A transporter stores manifested shipments of such wastes at a transfer facility for 10 days or less.
- 4) A healthcare facility accumulates such wastes in containers on site solely for the purpose of accumulating the quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal, and the healthcare facility complies with the applicable requirements in 35 Ill. Adm. Code 726.602 and 726.603.
- 5) A reverse distributor accumulates such wastes in containers on site solely for the purpose of accumulating the quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal, and the reverse distributor complies with 35 Ill. Adm. Code 726.610.
- b) An owner or operator of a treatment, storage, or disposal facility may store such wastes for up to one year unless the Agency can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
- c) An owner or operator of a treatment, storage, or disposal facility may store wastes beyond one year; however, the owner or operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
- d) If a generator's waste is exempt from a prohibition on the type of land disposal utilized for the waste (for example, because of an approved case-by-case extension granted by USEPA pursuant to 40 CFR 268.5, an approved Section 728.106 petition or a national capacity variance granted by USEPA pursuant to subpart C of 40 CFR 268), the prohibition in subsection (a) does not apply during the period of such exemption.
- e) The prohibition in subsection (a) does not apply to hazardous wastes that meet the

818 treatment standards specified under Sections 728.141, 728.142, and 728.143 or
819 the adjusted treatment standards specified under Section 728.144, or, where
820 treatment standards have not been specified, the waste is in compliance with the
821 applicable prohibitions specified in Section 728.132 or 728.139.
822

823 f) Liquid hazardous wastes containing PCBs at concentrations greater than or equal
824 to 50 ppm must be stored at a facility that meets the requirements of federal 40
825 CFR 761.65(b) (Storage for Disposal), incorporated by reference in 35 Ill. Adm.
826 Code 720.111(b), and must be removed from storage and treated or disposed as
827 required by the Part within one year of the date when such wastes are first placed
828 into storage. The provisions of subsection (c) do not apply to such PCB wastes
829 prohibited under Section 728.132.
830

831 g) The prohibition and requirements in this Section do not apply to hazardous
832 remediation wastes stored in a staging pile approved pursuant to 35 Ill. Adm.
833 Code 724.654.
834

835 (Source: Amended at 44 Ill. Reg. _____, effective _____)

AGENCY P vs JCAR 101

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 728
LAND DISPOSAL RESTRICTIONS

SUBPART A: GENERAL

Section

728.101 Purpose, Scope, and Applicability
728.102 Definitions
728.103 Dilution Prohibited as a Substitute for Treatment
728.104 Treatment Surface Impoundment Exemption
728.105 Procedures for Case-by-Case Extensions to an Effective Date
728.106 Petitions to Allow Land Disposal of a Waste Prohibited Pursuant to Subpart C
728.107 Testing, Tracking, and Recordkeeping Requirements for Generators, Reverse Distributors, Treaters, and Disposal Facilities
728.108 Landfill and Surface Impoundment Disposal Restrictions (Repealed)
728.109 Special Rules for Characteristic Wastes

SUBPART B: SCHEDULE FOR LAND DISPOSAL PROHIBITION AND ESTABLISHMENT OF TREATMENT STANDARDS

Section

728.110 First Third (Repealed)
728.111 Second Third (Repealed)
728.112 Third Third (Repealed)
728.113 Newly Listed Wastes
728.114 Surface Impoundment Exemptions

SUBPART C: PROHIBITION ON LAND DISPOSAL

Section

728.120 Waste-Specific Prohibitions: Dyes and Pigments Production Wastes
728.130 Waste-Specific Prohibitions: Wood Preserving Wastes
728.131 Waste-Specific Prohibitions: Dioxin-Containing Wastes
728.132 Waste-Specific Prohibitions: Soils Exhibiting the Toxicity Characteristic for Metals and Containing PCBs
728.133 Waste-Specific Prohibitions: Chlorinated Aliphatic Wastes
728.134 Waste-Specific Prohibitions: Toxicity Characteristic Metal Wastes
728.135 Waste-Specific Prohibitions: Petroleum Refining Wastes
728.136 Waste-Specific Prohibitions: Inorganic Chemical Wastes
728.137 Waste-Specific Prohibitions: Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated

- 728.138 Waste-Specific Prohibitions: Newly-Identified Organic Toxicity Characteristic Wastes and Newly-Listed Coke By-Product and Chlorotoluene Production Wastes
- 728.139 Waste-Specific Prohibitions: Spent Aluminum Potliners and Carbamate Wastes

SUBPART D: TREATMENT STANDARDS

Section

- 728.140 Applicability of Treatment Standards
- 728.141 Treatment Standards Expressed as Concentrations in Waste Extract
- 728.142 Treatment Standards Expressed as Specified Technologies
- 728.143 Treatment Standards Expressed as Waste Concentrations
- 728.144 USEPA Variance from a 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
- 728.APPENDIX J Recordkeeping, Notification, and Certification Requirements (Repealed)
- 728.APPENDIX K Metal-Bearing Wastes Prohibited from Dilution in a Combustion Unit According to Section 728.103(c)
- 728.TABLE A Constituent Concentrations in Waste Extract (CCWE)
- 728.TABLE B Constituent Concentrations in Wastes (CCW)
- 728.TABLE C Technology Codes and Description of Technology-Based Standards
- 728.TABLE D Technology-Based Standards by USEPA Hazardous Waste Number
- 728.TABLE E Standards for Radioactive Mixed Waste
- 728.TABLE F Alternative Treatment Standards for Hazardous Debris
- 728.TABLE G Alternative Treatment Standards Based on HTMR
- 728.TABLE H Wastes Excluded from CCW Treatment Standards
- 728.TABLE I Generator Paperwork Requirements
- 728.TABLE T Treatment Standards for Hazardous Wastes

728.TABLE U Universal Treatment Standards (UTS)

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

SOURCE: Adopted in R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7685, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17706, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1964, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9204, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9623, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1296, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9181, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6687, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 13045, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 6049, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3800, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1254, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12840, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1186, effective December 30, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 18131, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8790, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. 17951, effective October 24, 2013; amended in R16-7 at 40 Ill. Reg. 12052, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 24924, effective November 19, 2018; amended in R20-3/R20-11 at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

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 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 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 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 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 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 a VSQG, as defined in 35 Ill. Adm. Code 720.110;

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; and

4) De minimis losses of waste that exhibits a characteristic of hazardous waste to wastewaters are not considered to be prohibited waste and are 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.

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 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, as described in 35 Ill. Adm. Code 733.104;—and

4) Lamps, as described in 35 Ill. Adm. Code 733.105; and—

5) Aerosol cans, as described in 35 Ill. Adm. Code 733.106.

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 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, 271.10(b), 271.11(b), and 271.12(h) ~~(2017)~~.

(Source: Amended at 44 Ill. Reg. , effective)

Section 728.107 Testing, Tracking, and Recordkeeping Requirements for Generators, Reverse Distributors, Treaters, and Disposal Facilities

a) Requirements for Generators and Reverse Distributors

1) A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in Section 728.140, 728.145, or 728.149. This determination can be made concurrently with the hazardous waste determination required in 35 Ill. Adm. Code 722.111, in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing determines the total concentration of hazardous constituents or the concentration of hazardous constituents in an extract of the waste obtained using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste extract. (Alternatively, the generator must send the waste to a RCRA-permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of 35 Ill. Adm. Code 724.113 and subsection (b).) In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in Section 728.140 and Table T, and are described in detail in Table C. These wastes and soils contaminated with such wastes do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards must be tested). If a generator determines that it is managing a waste or soil contaminated with a waste that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, the generator must comply with the special requirements of Section 728.109 in addition to any applicable requirements in this Section.

2) If the waste or contaminated soil does not meet the treatment standard or if the generator chooses not to make the determination of whether its waste must be treated, the generator must send a one-time written notice to each treatment or storage facility receiving the waste with the initial shipment of waste to each treatment or storage facility, and the generator must place a copy of the one-time notice in the file. The notice must include the information in column "728.107(a)(2)" of the Generator Paperwork Requirements Table in Table I. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the USEPA hazardous waste numbers and manifest number of the first shipment, and it must include the following statement: "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.

3) If the waste or contaminated soil meets the treatment standard at the original point of generation, the waste generator must do the following:

A) With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste, and place a copy in its own file. The notice must include the information indicated in column "728.107(a)(3)" of the Generator Paperwork Requirements Table in Table I and the following certification statement, signed by an authorized representative:

I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in Subpart D of 35 Ill. Adm. Code 728. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

B) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice must include the information in the column headed "(a)(3)" in Table I.

C) If the waste changes, the generator must send a new notice and certification to the receiving facility and place a copy in its files. A generator of hazardous debris excluded from the definition of hazardous waste under 35 Ill. Adm. Code 721.103(f) is not subject to these requirements.

4) For reporting, tracking and recordkeeping when exceptions allow certain wastes or contaminated soil that do not meet the treatment standards to be land disposed, there are certain exemptions from the requirement that hazardous wastes or contaminated soil meet treatment standards before they can be land disposed. These include, but are not limited to, case-by-case extensions under Section 728.105, disposal in a no-migration unit under Section 728.106, or a national capacity variance or case-by-case capacity variance under Subpart C. If a generator's waste is so exempt, then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information indicated in column "728.107(a)(4)" of the Generator Paperwork Requirements Table in Table I. If the waste changes, the generator must send a new notice to the receiving facility, and place a copy in its file.

5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 35 Ill. Adm. Code 722.115, 722.116, and 722.117 to meet applicable LDR treatment standards found at Section 728.140, the generator must develop and follow a written waste analysis plan that describes the procedures it will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table F, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met:

A) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited wastes being treated, and contain all information necessary to treat the wastes in accordance with the requirements of this Part, including the selected testing frequency;

B) Such plan must be kept in the facility's on-site files and made available to inspectors; and

C) Wastes shipped off-site pursuant to this subsection (a)(5) must comply with the notification requirements of subsection (a)(3).

6) If a generator determines that the waste or contaminated soil is restricted based solely on its knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines that the waste is restricted based on testing this waste or an extract developed using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, all waste analysis data must be retained on-site in the generator's files.

7) If a generator determines that it is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or which is exempt from Subtitle C regulation under 35 Ill. Adm. Code

721.102 through 721.106 subsequent to the point of generation (including deactivated characteristic hazardous wastes that are managed in wastewater treatment systems subject to the CWA, as specified at 35 Ill. Adm. Code 721.104(a)(2); that are CWA-equivalent; or that are managed in an underground injection well regulated under 35 Ill. Adm. Code 730), the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from RCRA Subtitle C regulation, and the disposition of the waste in the generating facility's on-site file.

8) A generator must retain a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this Section on-site for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested in writing by the Agency. The requirements of this subsection (a)(8) apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under 35 Ill. Adm. Code 721.102 through 721.106, or exempted from RCRA Subtitle C regulation, subsequent to the point of generation.

BOARD NOTE: Any Agency request for extended records retention under this subsection (a)(8) is subject to Board review pursuant to Section 40 of the Act.

9) If a generator is managing a lab pack containing hazardous wastes and wishes to use the alternative treatment standard for lab packs found at Section 728.142(c), the generator must fulfill the following conditions:

A) With the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column "Section 728.107(a)(9)" in the Generator Paperwork Requirements Table of Table I and the following certification. The certification, which must be signed by an authorized representative and must be placed in the generator's files, must say the following:

I certify under penalty of law that I personally have examined and am familiar with the waste and that the lab pack contains only wastes that have not been excluded under Appendix D to 35 Ill. Adm. Code 728 and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at 35 Ill. Adm. Code 728.142(c). I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment.

B) No further notification is necessary until such time as the wastes in the lab pack change, or the receiving facility changes, in which case

a new notice and certification must be sent and a copy placed in the generator's file.

C) If the lab pack contains characteristic hazardous wastes (D001-D043), underlying hazardous constituents (as defined in Section 728.102(i)) need not be determined.

D) The generator must also comply with the requirements in subsections (a)(6) and (a)(7).

10) An SQG with tolling agreements pursuant to 35 Ill. Adm. Code 722.120(e) must comply with the applicable notification and certification requirements of subsection (a) for the initial shipment of the waste subject to the agreement. Such generators must retain on-site a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested in writing by the Agency.

BOARD NOTE: Any Agency request for extended records retention under this subsection (a)(10) is subject to Board review pursuant to Section 40 of the Act.

b) The owner or operator of a treatment facility must test its wastes according to the frequency specified in its waste analysis plan, as required by 35 Ill. Adm. Code 724.113 (for permitted TSDs) or 725.113 (for interim status facilities). Such testing must be performed as provided in subsections (b)(1), (b)(2), and (b)(3).

1) For wastes or contaminated soil with treatment standards expressed in the waste extract (TCLP), the owner or operator of the treatment facility must test an extract of the treatment residues using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, to assure that the treatment residues extract meets the applicable treatment standards.

2) For wastes or contaminated soil with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to assure that the treatment residues meet the applicable treatment standards.

3) A one-time notice must be sent with the initial shipment of waste or contaminated soil to the land disposal facility. A copy of the notice must be placed in the treatment facility's file.

A) No further notification is necessary until such time that the waste or receiving facility changes, in which case a new notice must be sent and a copy placed in the treatment facility's file.

B) The one-time notice must include the following requirements:

i) USEPA hazardous waste number and manifest number of first shipment;

ii) The waste is subject to the LDRs. The constituents of concern for F001 through F005 and F039 waste and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice;

iii) The notice must include the applicable wastewater/ nonwastewater category (see Section 728.102(d) and (f)) and subdivisions made within a USEPA hazardous waste numbers based on waste-specific criteria (such as D003 reactive cyanide);

iv) Waste analysis data (when available);

v) For contaminated soil subject to LDRs as provided in Section 728.149(a), the constituents subject to treatment as described in Section 728.149(d) and the following statement, "this contaminated soil (does/does not) contain listed hazardous waste and (does/does not) exhibit a characteristic of hazardous waste and (is subject to/complies with) the soil treatment standards as provided by Section 728.149(c)"; and

vi) A certification is needed (see applicable Section for exact wording).

4) The owner or operator of a treatment facility must submit a certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state as follows:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in 35 Ill. Adm. Code 728.140 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

A certification is also necessary for contaminated soil and it must state as follows:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been

maintained and operated properly so as to comply with treatment standards specified in 35 Ill. Adm. Code 728.149 without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

A) A copy of the certification must be placed in the treatment facility's on-site files. If the waste or treatment residue changes, or the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the treatment facility's file.

B) Debris excluded from the definition of hazardous waste under 35 Ill. Adm. Code 721.103(f) (i.e., debris treated by an extraction or destruction technology listed in Table F and debris that the Agency has determined does not contain hazardous waste) is subject to the notification and certification requirements of subsection (d) rather than the certification requirements of this subsection (b)(4).

C) For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in part or in whole on the analytical detection limit alternative specified in Section 728.140(d), the certification must be signed by an authorized representative and must state as follows:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by combustion units as specified in Table C to 35 Ill. Adm. Code 728. I have been unable to detect the nonwastewater organic constituents, despite having used best good faith efforts to analyze for such constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

D) For characteristic wastes that are subject to the treatment standards in Section 728.140 and Table T (other than those expressed as a required method of treatment) or Section 728.149 and which contain underlying hazardous constituents, as defined in Section 728.102(i); if these wastes are treated on-site to remove the hazardous characteristic; and that are then sent off-site for treatment of underlying hazardous constituents, the certification must state as follows:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.140 and Table T of Section 728.149 of that Part to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

E) For characteristic wastes that contain underlying hazardous constituents, as defined in Section 728.102(i), that are treated on-site to remove the hazardous characteristic and to treat underlying hazardous constituents to levels in Section 728.148 and Table U universal treatment standards, the certification must state as follows:

I certify under penalty of law that the waste has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.140 and Table T of that Part to remove the hazardous characteristic and that underlying hazardous constituents, as defined in 35 Ill. Adm. Code 728.102(i), have been treated on-site to meet the universal treatment standards of 35 Ill. Adm. Code 728.148 and Table U of that Part. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

5) If the waste or treatment residue will be further managed at a different treatment, storage, or disposal facility, the treatment, storage, or disposal facility that sends the waste or treatment residue off-site must comply with the notice and certification requirements applicable to generators under this Section.

6) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of 35 Ill. Adm. Code 726.120(b), regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) must, for the initial shipment of waste, prepare a one-time certification described in subsection (b)(4) and a notice that includes the information listed in subsection (b)(3) (except the manifest number). The certification and notification must be placed in the facility's on-site files. If the waste or the receiving facility changes, a new certification and notification must be prepared and placed in the on-site files. In addition, the owner or operator of the recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

c) Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal pursuant to 35 Ill. Adm. Code 726.120(b), the owner or operator of any land disposal facility disposing any waste subject to restrictions under this Part must do the following:

1) Maintain in its files copies of the notice and certifications specified in subsection (a) or (b).

2) Test the waste or an extract of the waste or treatment residue developed using Method 1311 (Toxicity Characteristic Leaching Procedure in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846) to assure that the waste or treatment residue is in compliance with the applicable treatment standards set forth in Subpart D. Such testing must be performed according to the frequency specified in the facility's waste analysis

plan as required by 35 Ill. Adm. Code 724.113 or 35 Ill. Adm. Code 725.113.

3) Where the owner or operator is disposing of any waste that is subject to the prohibitions under Section 728.133(f) but not subject to the prohibitions set forth in Section 728.132, the owner or operator must ensure that such waste is the subject of a certification according to the requirements of Section 728.108 prior to disposal in a landfill or surface impoundment unit, and that such disposal is in accordance with the requirements of Section 728.105(h)(2). The same requirement applies to any waste that is subject to the prohibitions under Section 728.133(f) and also is subject to the statutory prohibitions in the codified prohibitions in Section 728.139 or Section 728.132.

4) Where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal subject to the provisions of 35 Ill. Adm. Code 726.120(b), the owner or operator is not subject to subsections (c)(1) through (c)(3) with respect to such waste.

d) A generator or treater that first claims that hazardous debris is excluded from the definition of hazardous waste under 35 Ill. Adm. Code 721.103(f) (i.e., debris treated by an extraction or destruction technology provided by Table F, and debris that has been delisted) is subject to the following notification and certification requirements:

1) A one-time notification must be submitted to the Agency including the following information:

A) The name and address of the RCRA Subtitle D (municipal solid waste landfill) facility receiving the treated debris;

B) A description of the hazardous debris as initially generated, including the applicable USEPA hazardous waste numbers; and

C) For debris excluded under 35 Ill. Adm. Code 721.103(f)(1), the technology from Table F used to treat the debris.

2) The notification must be updated if the debris is shipped to a different facility and, for debris excluded under 35 Ill. Adm. Code 721.103(f)(1), if a different type of debris is treated or if a different technology is used to treat the debris.

3) For debris excluded under 35 Ill. Adm. Code 721.103(f)(1), the owner or operator of the treatment facility must document and certify compliance with the treatment standards of Table F, as follows:

A) Records must be kept of all inspections, evaluations, and analyses of treated debris that are made to determine compliance with the treatment standards;

B) Records must be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and

C) For each shipment of treated debris, a certification of compliance with the treatment standards must be signed by an authorized representative and placed in the facility's files. The certification must state as follows:

I certify under penalty of law that the debris has been treated in accordance with the requirements of 35 Ill. Adm. Code 728.145. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment.

e) A generator or treater that first receives a determination from USEPA or the Agency that a given contaminated soil subject to LDRs, as provided in Section 728.149(a), no longer contains a listed hazardous waste and a generator or treater that first determines that a contaminated soil subject to LDRs, as provided in Section 728.149(a), no longer exhibits a characteristic of hazardous waste must do the following:

1) Prepare a one-time only documentation of these determinations including all supporting information; and

2) Maintain that information in the facility files and other records for a minimum of three years.

(Source: Amended at 44 Ill. Reg. ———, effective
—————)

SUBPART E: PROHIBITIONS ON STORAGE

Section 728.150 Prohibitions on Storage of Restricted Wastes

a) Except as provided in this Section, the storage of hazardous wastes restricted from land disposal under Subpart C is prohibited, unless the following conditions are met:

1) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in 35 Ill. Adm. Code 722.116 and 722.117 and 35 Ill. Adm. Code 724 and 725. (A generator that is in existence on the effective date of a regulation under this Part and which must store hazardous wastes for longer than 90 days due to the regulations under this Part becomes an owner or operator of a storage facility and must obtain a RCRA permit, as required by 35 Ill. Adm. Code 703. Such a facility may qualify for interim status upon compliance with the regulations governing interim status under 35 Ill. Adm. Code 703.153.)

2) An owner or operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and each of the following conditions are fulfilled:

A) Each container is clearly marked with the following to identify:

i) The words "Hazardous Waste";

ii) The applicable USEPA hazardous waste numbers in Subparts C and D of 35 Ill. Adm. Code 721; or use a nationally recognized electronic system, such as bar coding, to identify the USEPA hazardous waste numbers;

iii) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with subpart E (Labeling) or subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200, incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111); and

iv) The date each period of accumulation begins.

B) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received and the date each period of accumulation begins, or such information is recorded and maintained in the operating record at the facility. Regardless of whether the tank itself is marked, the owner and operator must comply with the operating record requirements of 35 Ill. Adm. Code 724.173 or 725.173.

3) A transporter stores manifested shipments of such wastes at a transfer facility for 10 days or less.

4) A healthcare facility accumulates such wastes in containers on site solely for the purpose of ~~the~~ accumulating the quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal, and the healthcare facility complies with the applicable requirements in ~~Sections~~35 Ill. Adm. Code 726.602 and 726.603.

5) A reverse distributor accumulates such wastes in containers on site solely for the purpose of ~~the~~ accumulating the quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal, and the reverse distributor complies with ~~Section~~35 Ill. Adm. Code 726.610.

b) An owner or operator of a treatment, storage, or disposal facility may store such wastes for up to one year unless the Agency can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

c) An owner or operator of a treatment, storage, or disposal facility may store wastes beyond one year; however, the owner or operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

d) If a generator's waste is exempt from a prohibition on the type of land disposal utilized for the waste (for example, because of an approved case-by-case extension granted by USEPA pursuant to 40 CFR 268.5, an approved Section 728.106 petition or a national capacity variance granted by USEPA pursuant to subpart C of 40 CFR 268), the prohibition in subsection (a) does not apply during the period of such exemption.

e) The prohibition in subsection (a) does not apply to hazardous wastes that meet the treatment standards specified under Sections 728.141, 728.142, and 728.143 or the adjusted treatment standards specified under Section 728.144, or, where treatment standards have not been specified, the waste is in compliance with the applicable prohibitions specified in Section 728.132 or 728.139.

f) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm must be stored at a facility that meets the requirements of federal 40 CFR 761.65(b) (Storage for Disposal), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and must be removed from storage and treated or disposed as required by the Part within one year of the date when such wastes are first placed into storage. The provisions of subsection (c) do not apply to such PCB wastes prohibited under Section 728.132.

g) The prohibition and requirements in this Section do not apply to hazardous remediation wastes stored in a staging pile approved pursuant to 35 Ill. Adm. Code 724.654.

(Source: Amended at 44 Ill. Reg. _____, effective

_____)
~~ILLINOIS REGISTER~~
~~POLLUTION CONTROL BOARD~~
~~NOTICE OF PROPOSED AMENDMENTS~~
JCAR350728-2009799r01

Document comparison by Workshare Compare on Tuesday, June 2, 2020
10:12:28 AM

Input:	
Document 1 ID	file:///I:/Input/Agency Rulemakings - Files Received\2020\June 2020\35-728-Agency Proposed-(issue 23).docx
Description	35-728-Agency Proposed- (issue 23)
Document 2 ID	file:///I:/Input/Agency Rulemakings - Files Received\2020\June 2020\35-728-JCAR r01- (issue 23).docx
Description	35-728-JCAR r01- (issue 23)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	3
Deletions	18
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	21