

# First Notice

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4 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS  
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 95 AUTHORITY: Implementing Sections 7.2, 22.4, and 22.23e and authorized by Section 27 of the  
 96 Environmental Protection Act [415 ILCS 5/7.2, 22.4, 22.23e, and 27].  
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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 104 withdrawn at 15 Ill.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 R20-8/R20-16 at 44 Ill. Reg. 15495, effective September 3,  
 127 2020; amended in R25-22 at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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**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) If a person has been granted an extension to the effective date of a prohibition under Subpart C or under Section 728.105, with respect to those wastes covered by the extension;
  - 2) If a person has been granted an exemption from a prohibition under a petition under 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 that is otherwise prohibited under 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 that is otherwise prohibited under 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

- 173 subsequently discharges to waters of the United States  
174 under a permit issued under 35 Ill. Adm. Code 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 under Section 121(d)(4) of  
188 the federal Comprehensive Environmental Response, Compensation, and Liability  
189 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 under 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.

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- 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 under 35 Ill. Adm. Code 733.
- 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
  - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103;
  - 3) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104;
  - 4) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~
  - 5) Aerosol cans, as described in 35 Ill. Adm. Code 733.106; ~~and~~
  - 6) [Paint and paint-related wastes, as described in 35 Ill. Adm. Code 733.107.](#)
- 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 under 35 Ill. Adm. Code 709 or Section 22.6 or 39(h) of the 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 under 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).
- (Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)