**Section 705.302 Issuance of a RCRA Standardized Permit**

a) Agency Preparation of a Draft RCRA Standardized Permit

1) The Agency must review the Notice of Intent and supporting information submitted by the facility owner or operator.

2) The Agency must determine whether the facility is or is not eligible to operate under the RCRA standardized permit.

A) If the facility is eligible for the RCRA standardized permit, the Agency must propose terms and conditions, if any, to include in a supplemental portion. If the Agency determines that these terms and conditions are necessary to adequately protect human health and the environment, and the terms and conditions cannot be imposed, the Agency must tentatively deny coverage under the RCRA standardized permit.

B) If the facility is not eligible for the RCRA standardized permit, the Agency must tentatively deny coverage under the RCRA standardized permit. Cause for ineligibility may include, but is not limited to, the following:

i) A failure of owner or operator to submit all the information required pursuant to 35 Ill. Adm. Code 703.351(b).

ii) Information submitted that is required pursuant to 35 Ill. Adm. Code 703.351(b) that is determined to be inadequate.

iii) The facility does not meet the eligibility requirements (its activities are outside the scope of the RCRA standardized permit).

iv) A demonstrated history of significant non-compliance with applicable requirements.

v) Permit conditions cannot ensure adequate protection of human health and the environment.

3) The Agency must prepare its draft permit decision within 120 days after receiving the Notice of Intent and supporting documents from a facility owner or operator. The Agency's tentative determination pursuant to this Section to deny or grant coverage under the RCRA standardized permit, including any proposed site-specific conditions in a supplemental portion, constitutes a draft permit decision. The Agency is allowed a one time extension of 30 days to prepare the draft permit decision. When the use of the 30-day extension is anticipated, the Agency must inform the permit applicant during the initial 120-day review period. Reasons for an extension may include, but are not limited to, needing to complete review of submissions with the Notice of Intent (e.g*.*, closure plans, waste analysis plans, etc. for facilities seeking to manage hazardous waste generated off-site).

4) Many requirements in this Part and 35 Ill. Adm. Code 702 apply to processing the RCRA standardized permit application and preparing the Agency's draft permit decision. For example, the Agency's draft permit decision must be accompanied by a statement of basis or fact sheet and must be based on the administrative record. In preparing the Agency's draft permit decision, the following provisions of this Part and 35 Ill. Adm. Code 702 apply (subject to the following modifications):

A) Section 705.101 (Scope and Applicability): all subsections apply.

B) 35 Ill. Adm. Code 702.110 (Definitions): all definitions apply.

C) Sections 705.121 (Permit Application) and 705.124 (Site Visit): all subsections apply.

D) Section 705.127 (Consolidation of Permit Processing): applies.

E) Section 705.128 (Modification or Reissuance of Permits): does not apply.

F) Section 705.141 (Draft Permits): does not apply to the RCRA standardized permit; procedures in this Subpart G apply instead.

G) Section 705.142 (Statement of Basis): applies.

H) Section 705.143 (Fact Sheet): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D.

I) Section 705.144 (Administrative Record for Draft Permits or Notices of Intent to Deny): all subsections apply.

J) Subpart D (Public Notice): only Section 705.163(a)(4) and (a)(5)(A) applies to the RCRA standardized permit. Most of Subpart D does not apply to the RCRA standardized permit; Section 705.303(a) through (c) applies instead.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.204 (2017).

b) Preparation of a Final RCRA Standardized Permit. The Agency must consider all comments received during the public comment period (see Section 705.303(b)) in making its final permit decision. In addition, many requirements in this Part and 35 Ill. Adm. Code 702 apply to the public comment period, public hearings, and preparation of the Agency's final permit decision. In preparing a final permit decision, the following provisions of this Part and 35 Ill. Adm. Code 702 apply (subject to the following modifications):

1) Section 705.101 (Scope and Applicability): all subsections apply.

2) 35 Ill. Adm. Code 702.110 (Definitions): all definitions apply.

3) Section 705.181 (Public Comments and Requests for Public Hearings): Section 705.181 does not apply to the RCRA standardized permit; the procedures in Section 705.303(b) apply instead.

4) Section 705.182 (Public Hearings): Section 705.182(b), (c), and (d) applies.

5) Section 705.183 (Obligation to Raise Issues and Provide Information): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D.

6) Section 705.184 (Reopening of the Public Comment Period): all of subsections apply; however, in the context of the RCRA standardized permit, the reference in Section 705.184(b)(1) to preparation of a draft permit is Section 705.302(a) instead of Section 705.141; the reference in Section 705.184(b)(3) to reopening or extending the comment period relates to Section 705.303(b); the reference in Section 705.184(c) to the public notice is Section 705.303(a) instead of Subpart D.

7) Section 705.201 (Final Permit Decision): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D of this Part.

8) Section 705.202 (Stay of Permit Conditions upon Appeal): all subsections apply.

9) Section 705.210 (Agency Response to Comments): Section 705.210 does not apply to the RCRA standardized permit; procedures in Section 705.303(c) apply instead.

10) Section 705.211 (Administrative Record for Final Permit or Letters of Denial): all subsections apply, however, the reference to response to comments is Section 705.303(c) instead of Section 705.210.

11) Section 705.212 (Appeal of Agency Permit Determinations): all subsections apply.

12) Section 705.103 (Computation of Time): all subsections apply.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.205 (2017).

c) When a facility owner or operator must apply for an individual permit.

1) Instances in which the Agency may determine that a facility is not eligible for the RCRA standardized permit include, but are not limited to, the following:

A) The facility does not meet the criteria in Section 705.300(b).

B) The facility has a demonstrated history of significant non-compliance with regulations or permit conditions.

C) The facility has a demonstrated history of submitting incomplete or deficient permit application information.

D) The facility has submitted incomplete or inadequate materials with the Notice of Intent (submitted pursuant to Section 705.301(a)(2)).

2) If the Agency determines that a facility is not eligible for the RCRA standardized permit, the Agency must inform the facility owner or operator that it must apply for an individual permit.

3) The Agency may require any facility that has a RCRA standardized permit to apply for and obtain an individual RCRA permit. Any interested person may petition the Agency to take action pursuant to this subsection (c)(3). Instances in which the Agency may require an individual RCRA permit include, but are not limited to, the following:

A) The facility is not in compliance with the terms and conditions of the standardized RCRA permit.

B) Circumstances have changed since the time the facility owner or operator applied for the RCRA standardized permit, so that the facility's hazardous waste management practices are no longer appropriately controlled under the RCRA standardized permit.

4) The Agency may require any facility authorized by a RCRA standardized permit to apply for an individual RCRA permit only if the Agency has notified the facility owner or operator in writing that an individual permit application is required. The Agency must include in this notice a brief statement of the reasons for its decision, a statement setting a deadline for the owner or operator to file the application, and a statement that, on the effective date of the individual RCRA permit, the facility's RCRA standardized permit automatically terminates. The Agency may grant additional time upon request from the facility owner or operator.

5) When the Agency issues an individual RCRA permit to an owner or operator otherwise subject to a standardized RCRA permit, the RCRA standardized permit for that facility will automatically cease to apply on the effective date of the individual permit.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.206 (2017). An owner or operator authorized to operate under a RCRA standardized permit that is required by the Agency to submit an application for an individual permit pursuant to this subsection (c) may appeal that Agency determination before the Board pursuant to Section 40 of the Act and 35 Ill. Adm. Code 101 and 105.

(Source: Amended at 42 Ill. Reg. 21179, effective November 19, 2018)