**Section 724.440 Applicability**

a) The regulations in this Subpart O apply to owners and operators of hazardous waste incinerators (as defined in 35 Ill. Adm. Code 720.110), except as Section 724.101 provides otherwise.

b) Integration of the MACT Standards

1) Except as provided by subsections (b)(2) through (b)(4), the standards of this Part do not apply to a new hazardous waste incineration unit that became subject to RCRA permit requirements after October 12, 2005; or no longer apply when the owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, pursuant to 40 CFR 63.1207(j) and63.1210(d), documenting compliance with the requirements of subpart EEE of 40 CFR 63.

2) The MACT standards of subpart EEE of 40 CFR 63 do not replace the closure requirements of Section 724.451 or the applicable requirements of Subparts A through H, BB, and CC.

3) The particulate matter standard of Section 724.443(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206(b)(14) and 63.1219(e) (When and How Must You Comply with the Standards and Operating Requirements?), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

4) The following requirements remain in effect for startup, shutdown, and malfunction events if the owner or operator elects to comply with 35 Ill. Adm. Code 703.320(a)(1)(A) to minimize emissions of toxic compounds from the following events:

A) Section 724.445(a), requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

B) Section 724.445(c), requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

BOARD NOTE: Sections 9.1 and 39.5 of the Environmental Protection Act make the federal MACT standards directly applicable to entities in Illinois and authorize the Agency to issue permits based on the federal standards. Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of subpart EEE of 40 CFR 63. In adopting this subsection (b), USEPA stated as follows (at 64 Fed Reg. 52828, 52975 (September 30, 1999)):

Under this approach . . . , MACT air emissions and related operating requirements are to be included in Title V permits; RCRA permits will continue to be required for all other aspects of the combustion unit and the facility that are governed by RCRA (e.g., corrective action, general facility standards, other combustor-specific concerns such as materials handling, risk-based emissions limits and operating requirements, as appropriate, and other hazardous waste management units).

c) After consideration of the waste analysis included with Part B of the permit application, the Agency, in establishing the permit conditions, must exempt the applicant from all requirements of this Subpart O, except Section 724.441 (Waste Analysis) and Section 724.451 (Closure):

1) If the Agency finds that the waste to be burned is one of the following:

A) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both;

B) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is reactive (Hazard Code R) for characteristics other than those listed in Section 721.123(a)(4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone;

C) It is a hazardous waste solely because it possesses the characteristic of ignitability, as determined by the test for characteristics of hazardous wastes pursuant to Subpart C of 35 Ill. Adm. Code 721; or

D) It is a hazardous waste solely because it possesses any of the reactivity characteristics described by 35 Ill. Adm. Code 721.123(a)(1), (a)(2), (a)(3), (a)(6), (a)(7), and (a)(8) and will not be burned when other hazardous wastes are present in the combustion zone; and

2) If the waste analysis shows that the waste contains none of the hazardous constituents listed in Subpart H of 35 Ill. Adm. Code 721 that would reasonably be expected to be in the waste.

d) If the waste to be burned is one that is described by subsection (b)(1)(A), (b)(1)(B), (b)(1)(C), or (b)(1)(D) and contains insignificant concentrations of the hazardous constituents listed in Subpart H of 35 Ill. Adm. Code 721, then the Agency may, in establishing permit conditions, exempt the applicant from all requirements of this Subpart O, except Section 724.441 (Waste Analysis) and Section 724.451 (Closure), after consideration of the waste analysis included with Part B of the permit application, unless the Agency finds that the waste will pose a threat to human health or the environment when burned in an incinerator.

e) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of 35 Ill. Adm. Code 703.222 through 703.225 (short-term and incinerator permits).

(Source: Amended at 42 Ill. Reg. 22614, effective November 19, 2018)