**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 subsequently discharges to waters of the United States under a permit issued under 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 under 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 under 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 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.

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 44 Ill. Reg. 15495, effective September 3, 2020)