**Section 728.106 Petitions to Allow Land Disposal of a Waste Prohibited Pursuant to Subpart C**

a) Any person seeking an exemption from a prohibition pursuant to Subpart C for the disposal of a restricted hazardous waste in a particular unit or units must submit a petition to the Board demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration must include the following components:

1) An identification of the specific waste and the specific unit for which the demonstration will be made;

2) A waste analysis to describe fully the chemical and physical characteristics of the subject waste;

3) A comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality;

4) A monitoring plan that detects migration at the earliest practical time;

5) Sufficient information to assure the Agency that the owner or operator of a land disposal unit receiving restricted wastes will comply with other applicable federal, State, and local laws;

6) Whether the facility is in interim status, or, if a RCRA permit has been issued, the term of the permit.

b) The demonstration referred to in subsection (a) must meet the following criteria:

1) All waste and environmental sampling, test and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;

2) All sampling, testing and estimation techniques for chemical and physical properties of the waste and all environmental parameters must conform with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, and with "Generic Quality Assurance Project Plan for Land Disposal Restrictions Program", USEPA publication number EPA-530/SW-87-011, each incorporated by reference in 35 Ill. Adm. Code 720.111.

3) Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;

4) A quality assurance and quality control plan that addresses all aspects of the demonstration and conforms with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, and with "Generic Quality Assurance Project Plan for Land Disposal Restrictions Program", USEPA publication number EPA-530/SW-87-011; and

5) An analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including, but not limited to, earthquakes, floods, severe storm events, droughts, or other natural phenomena.

c) Each petition referred to in subsection (a) must include the following:

1) A monitoring plan that describes the monitoring program installed at or around the unit to verify continued compliance with the conditions of the adjusted standard. This monitoring plan must provide information on the monitoring of the unit or the environment around the unit. The following specific information must be included in the plan:

A) The media monitored in the cases where monitoring of the environment around the unit is required;

B) The type of monitoring conducted at the unit, in the cases where monitoring of the unit is required;

C) The location of the monitoring stations;

D) The monitoring interval (frequency of monitoring at each station);

E) The specific hazardous constituents to be monitored;

F) The implementation schedule for the monitoring program;

G) The equipment used at the monitoring stations;

H) The sampling and analytical techniques employed; and

I) The data recording and reporting procedures.

2) Where applicable, the monitoring program described in subsection (c)(1) must be in place for a period of time specified by the Board, as part of its approval of the petition, prior to receipt of prohibited waste at the unit.

3) The monitoring data collected according to the monitoring plan specified pursuant to subsection (c)(1) must be sent to the Agency according to a format and schedule specified and approved in the monitoring plan.

4) A copy of the monitoring data collected under the monitoring plan specified pursuant to subsection (c)(1) must be kept on-site at the facility in the operating record.

5) The monitoring program specified pursuant to subsection (c)(1) must meet the following criteria:

A) All sampling, testing, and analytical data must be approved by the Board and must provide data that is accurate and reproducible;

B) All estimation and monitoring techniques must be approved by the Board; and

C) A quality assurance and quality control plan addressing all aspects of the monitoring program must be provided to and approved by the Board.

d) Each petition must be submitted to the Board as provided in Subpart D of 35 Ill. Adm. Code 104.

e) After a petition has been approved, the owner or operator must report any changes in conditions at the unit or the environment around the unit that significantly depart from the conditions described in the petition and affect the potential for migration of hazardous constituents from the units as follows:

1) If the owner or operator plans to make changes to the unit design, construction, or operation, the owner or operator must do the following at least 90 days prior to making the change:

A) File a petition for modification of or a new petition to amend an adjusted standard with the Board reflecting the changes; or

B) Demonstrate to the Agency that the change can be made consistent with the conditions of the existing adjusted standard.

2) If the owner or operator discovers that a condition at the site that was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Agency within 10 days after discovering the change. The Agency must determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance, a petition for modification of or a new petition for an adjusted standard.

f) If there is migration of hazardous constituents from the unit, as determined by the owner or operator, the owner or operator must do the following:

1) It must immediately suspend receipt of prohibited waste at the unit, and

2) It must notify the Agency, in writing, within 10 days after the determination that a release has occurred.

3) Following receipt of the notification, the Agency must, do the following within 60 days after receiving notification:

A) It must determine whether the owner or operator can continue to receive prohibited waste in the unit under the conditions of the adjusted standard.

B) If modification or vacation of the adjusted standard is necessary, it must file a motion to modify or vacate the adjusted standard with the Board.

C) It must determine whether further examination of any migration is required pursuant to the applicable provisions of 35 Ill. Adm. Code 724 or 725.

g) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information. I believe that submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

h) After receiving a petition, the Board may request any additional information that may be required to evaluate the demonstration.

i) If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit.

j) The Board will give public notice and provide an opportunity for public comment, as provided in Subpart D of 35 Ill. Adm. Code 104. Notice of a final decision on a petition will be published in the Environmental Register.

k) The term of a petition granted pursuant to this Section will be no longer than the term of the RCRA permit if the disposal unit is operating pursuant to a RCRA permit, or up to a maximum of 10 years from the date of approval provided pursuant to subsection (g) if the unit is operating under interim status. In either case, the term of the granted petition expires upon the termination or denial of a RCRA permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached.

l) Prior to the Board's decision, the applicant must comply with all restrictions on land disposal pursuant to this Part once the effective date for the waste has been reached.

m) The petition granted by the Board does not relieve the petitioner of responsibilities in the management of hazardous waste pursuant to 35 Ill. Adm. Code 702, 703, 720 through 728, and 738.

n) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm are not eligible for an adjusted standard pursuant to this Section.

(Source: Amended at 42 Ill. Reg. 24924, effective November 19, 2018)