**Section 728.109 Special Rules for Characteristic Wastes**

a) The initial generator of a solid waste must determine each USEPA hazardous waste number applicable to the waste in order to determine the applicable treatment standards under Subpart D. This determination may be made concurrently with the hazardous waste determination required in Section 722.111. For purposes of this Part, the waste must carry the USEPA hazardous waste number for any applicable listing under Subpart D of 35 Ill. Adm. Code 721. In addition, the waste must carry one or more of the USEPA hazardous waste numbers under Subpart C of 35 Ill. Adm. Code 721 where the waste exhibits a characteristic, except in the case when the treatment standard for the listed waste operates in lieu of the treatment standard for the characteristic waste, as specified in subsection (b). If the generator determines that its waste displays a characteristic of hazardous waste (and the waste is not D001 nonwastewaters treated by CMBST, RORGS, or POLYM of Table C), the generator must determine the underlying hazardous constituents (as defined at Section 728.102(i)) in the characteristic waste.

b) Where a prohibited waste is both listed under Subpart D of 35 Ill. Adm. Code 721 and exhibits a characteristic of hazardous waste under Subpart C of 35 Ill. Adm. Code 721, the treatment standard for the USEPA hazardous waste number listed in Subpart D of 35 Ill. Adm. Code 721 will operate in lieu of the standard for the USEPA hazardous waste number under Subpart C of 35 Ill. Adm. Code 721, provided that the treatment standard for the listed waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic USEPA hazardous waste numbers.

c) In addition to any applicable standards determined from the initial point of generation, no prohibited waste that exhibits a characteristic under Subpart C of 35 Ill. Adm. Code 721 must be land disposed, unless the waste complies with the treatment standards under Subpart D.

d) A waste that exhibits a characteristic of hazardous waste under Subpart C of 35 Ill. Adm. Code 721 is also subject to Section 728.107 requirements, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generator's or treater's on-site files. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes or if the RCRA Subtitle D (municipal solid waste landfill) facility receiving the waste changes.

1) The notification must include the following information:

A) The name and address of the RCRA Subtitle D (municipal solid waste landfill) facility receiving the waste shipment; and

B) A description of the waste as initially generated, including the applicable USEPA hazardous waste numbers, the treatability groups, and the underlying hazardous constituents (as defined in Section 728.102(i)), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.

2) The certification must be signed by an authorized representative and must state the language found in Section 728.107(b)(4). If treatment removes the characteristic but does not meet standards applicable to underlying hazardous constituents, then the certification found in Section 728.107(b)(4)(D) applies.

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