**Section 728.114 Surface Impoundment Exemptions**

a) This Section defines additional circumstances under which an otherwise prohibited waste may continue to be placed in a surface impoundment.

b) Wastes that are newly identified or listed by USEPA persuant to Section 3001 of RCRA (42 USC 6921) after November 8, 1984 and which are stored in a surface impoundment that is newly subject to subtitle C of RCRA (42 USC 6921 et seq.) as a result of the additional identification or listing may continue to be stored in the surface impoundment for 48 months after the promulgation of the additional listing or characteristic, notwithstanding the fact that the waste is otherwise prohibited from land disposal, provided that the surface impoundment is in compliance with the requirements of Subpart F of 35 Ill. Adm. Code 725 within 12 months after promulgation of the new listing or characteristic.

c) Wastes that are newly identified or listed by USEPA under Section 3001 of RCRA (42 USC 6921) after November 8, 1984 and which are treated in a surface impoundment that is newly subject to Subtitle C of RCRA (42 USC 6921 et seq.) as a result of the additional identification or listing may continue to be treated in that surface impoundment, notwithstanding the fact that the waste is otherwise prohibited from land disposal, provided that the surface impoundment is in compliance with the requirements of Subpart F of 35 Ill. Adm. Code 725 within 12 months after the promulgation of the new listing or characteristic. In addition, if the surface impoundment continues to treat hazardous waste after 48 months from promulgation of the additional listing or characteristic, it must then be in compliance with Section 728.104.

(Source: Amended at 30 Ill. Reg. 3800, effective February 23, 2006)