**Section 728.138 Waste-Specific Prohibitions: Newly-Identified Organic Toxicity Characteristic Wastes and Newly-Listed Coke By-Product and Chlorotoluene Production Wastes**

a) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151 are prohibited from land disposal. In addition, debris contaminated with USEPA hazardous waste numbers F037, F038, K107 through K112, K117, K118, K123 through K126, K131, K132, K136, U328, U353, U359 and soil and debris contaminated with D012 through D043, K141 through K145, and K147 through K151 are prohibited from land disposal. The following wastes that are specified in the table at 35 Ill. Adm. Code 721.124(b) as USEPA hazardous waste numbers D012, D013, D014, D015, D016, D017, D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, and D043 that are not radioactive, that are managed in systems other than those whose discharge is regulated under the federal Clean Water Act (CWA; 33 U.S.C. 1251 et seq.), that are zero dischargers that do not engage in CWA-equivalent treatment before ultimate land disposal, or that are injected in Class I deep wells regulated under the Safe Drinking Water Act (SDWA) are prohibited from land disposal. "CWA-equivalent treatment", as used in this Section, means biological treatment for organics, alkaline chlorination or ferrous sulfate precipitation for cyanide, precipitation and sedimentation for metals, reduction for hexavalent chromium, or another treatment technology that can be demonstrated to perform equally to or better than these technologies.

b) Radioactive wastes that are mixed with any of USEPA hazardous waste numbers D018 through D043 waste that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA), in systems that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA), or in systems that are zero dischargers that engage in CWA-equivalent treatment, as defined in subsection (a), before ultimate land disposal are prohibited from land disposal. Radioactive wastes mixed with any of USEPA hazardous waste numbers K141 through K145 and K147 through K151 are also prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

c) This subsection (c) corresponds with 40 CFR 268.38(c), which expired by its own terms on September 19, 1996. This statement maintains structural consistency with the corresponding federal regulations.

d) The requirements of subsections (a), (b), and (c) do not apply if any of the following applies to the waste:

1) The wastes meet the applicable treatment standards specified in Subpart D;

2) A person has been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition;

3) The wastes meet the applicable alternate treatment standards established pursuant to a petition granted under Section 728.144;

4) A person has been granted an extension to the effective date of a prohibition pursuant to Section 728.105, with respect to these wastes covered by the extension.

e) To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in Section 728.140 and Table T, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable levels of Subpart D, the waste is prohibited from land disposal and all requirements of this Part are applicable, except as otherwise specified.

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