**Section 703.155 Changes During Interim Status**

a) Except as provided in subsection (b) of this Section, the owner or operator of an interim status facility may make the following changes at the facility:

1) Treatment, storage, or disposal of new hazardous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal;

2) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Agency approves the change because either of the following conditions exist:

A) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities; or

B) The change is necessary to comply with a federal, State, or local requirement, including 35 Ill. Adm. Code 725, 728, or 729;

3) Changes in the processes for the treatment, storage, or disposal of hazardous waste may be made at a facility or addition of processes if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for change) and the Agency approves the change because either of the following conditions exist:

A) The change is necessary to prevent a threat to human health or the environment because of an emergency situation; or

B) The change is necessary to comply with a federal, State, or local requirement, including 35 Ill. Adm. Code 725, 728, or 729;

4) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator must comply with the requirements of Subpart H of 35 Ill. Adm. Code 725 (financial requirements), until the new owner or operator has demonstrated to the Agency that it is complying with the requirements of that Subpart. The new owner or operator must demonstrate compliance with the financial assurance requirements within six months after the date of the change in the ownership or operational control of the facility. Upon demonstration to the Agency by the new owner or operator of compliance with the financial assurance requirements, the Agency must notify the old owner or operator in writing that the old owner or operator no longer needs to comply with Subpart H of 35 Ill. Adm. Code 725 as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility;

5) Changes made in accordance with an interim status corrective action order issued by: USEPA under Section 3008(h) of the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) or other federal authority; a court pursuant to a judicial action brought USEPA; a court pursuant to the Environmental Protection Act; or the Board. Changes under this subsection (a)(5) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility;

6) Addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

b) Except as specifically allowed under this subsection (b), changes listed under subsection (a) of this Section must not be made if they amount to reconstruction of the HWM facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new HWM facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

1) Changes made solely for the purpose of complying with requirements of 35 Ill. Adm. Code 725.293 for tanks and ancillary equipment.

2) If necessary to comply with federal, State or local requirements, including 35 Ill. Adm. Code 725, 728, or 729, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the statutory standards of Section 35 Ill. Adm. Code 728.139.

3) Changes that are necessary to allow an owner or operator to continue handling newly listed or identified hazardous wastes that have been treated, stored or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

4) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

5) Changes necessary to comply with an interim status corrective action order issued by: USEPA under Section 3008(h) of the federal Resource Conservation and Recovery Act (42 USC 6930(a)) or other federal authority; a court pursuant to a judicial action brought by USEPA; a court pursuant to the Environmental Protection Act; or the Board. Changes under this subsection (b)(5) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

6) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed in 35 Ill. Adm. Code 728, provided that such changes are made solely for the purpose of complying with 35 Ill. Adm. Code 728.

7) Addition of newly regulated units under subsection (a)(6) of this Section.

8) Changes necessary to comply with the federal Clean Air Act (CAA) Maximum Achievable Control Technology (MACT) emissions standards of subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

BOARD NOTE: Derived from 40 CFR 270.72 (2005). The federal CAA MACT standards are directly implemented in Illinois pursuant to Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5].

(Source: Amended at 30 Ill. Reg. 2845, effective February 23, 2006)