**Section 726.200 Applicability**

a) Subpart H applies to hazardous waste burned or processed in a boiler or industrial furnace (BIF) (as defined in 35 Ill. Adm. Code 720.110) irrespective of the purpose of burning or processing, except as provided by subsections (b), (c), (d), (g), and (h). In Subpart H, the term "burn" means burning for energy recovery or destruction or processing for materials recovery or as an ingredient. The emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 apply to facilities operating under interim status or under a RCRA permit, as specified in Sections 726.202 and 726.203.

b) Integration of the MACT Standards

1) Except as provided by subsections(b)(2), (b)(3), and (b)(4), the standards of this Part do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of federal 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), by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, under 40 CFR 63.1207(j) (What are the performance testing requirements?) and 63.1210(d) (What are the notification requirements?), documenting compliance with the requirements of federal subpart EEE of 40 CFR 63. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this Part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2) The following standards continue to apply:

A) If an owner or operator elects to comply with 35 Ill. Adm. Code 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, Section 726.202(e)(1), requiring operations in compliance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and Section 726.202(e)(2)(C), requiring compliance with the emission standards and operating requirements, during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

B) The closure requirements of Sections 726.202(e)(11) and 726.203(l);

C) The standards for direct transfer of Section 726.211;

D) The standards for regulation of residues of Section 726.212; and

E) The applicable requirements of Subparts A through H, BB, and CC of 35 Ill. Adm. Code 724 and 725.

3) The owner or operator of a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as 40 CFR 63), that has not elected to comply with the emission standards of 40 CFR 63.1216, 63.1217, and 63.1218, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63), for particulate matter, semivolatile and low volatile metals, and total chlorine, also remains subject to the following requirements of this Part:

A) Section 726.205 (Standards to Control PM);

B) Section 726.206 (Standards to Control Metals Emissions); and

C) Section 726.207 (Standards to Control HCl and Chlorine Gas Emissions).

4) The particulate matter standard of Section 726.205 remains in effect for a boiler that elects to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e) and 63.1217(e), each incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63).

BOARD NOTE: Sections 9.1 and 39.5 of the Environmental Protection Act make the federal MACT standards directly applicable to entities in Illinois and authorize the Agency to issue permits based on the federal standards. In adopting this subsection (b), USEPA stated as follows (at 64 Fed Reg. 52828, 52975 (November 30, 1999)):

Under [the approach adopted by USEPA as a] final rule, MACT air emissions and related operating requirements are to be included in title V permits; RCRA permits will continue to be required for all other aspects of the combustion unit and the facility that are governed by RCRA (e.g., corrective action, general facility standards, other combustor-specific concerns such as materials handling, risk-based emissions limits and operating requirements, as appropriate, and other hazardous waste management units).

c) The following hazardous wastes and facilities are not subject to regulation under Subpart H:

1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. The used oil is subject to regulation under 35 Ill. Adm. Code 739, rather than this Subpart H;

2) Gas recovered from hazardous or solid waste landfills, when the gas is burned for energy recovery;

3) Hazardous wastes that are exempt from regulation under 35 Ill. Adm. Code 721.104 and 721.106(a)(3)(C) and (a)(3)(D) and hazardous wastes that are subject to the special requirements for VSQGs under 35 Ill. Adm. Code 722.114; and

4) Coke ovens, if the only hazardous waste burned is USEPA hazardous waste no. K087 decanter tank tar sludge from coking operations.

d) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices, such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation under Subpart H, except for Sections 726.201 and 726.212.

1) To be exempt from Sections 726.202 through 726.211, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dust emitted by steel manufacturing must comply with the requirements of subsection (d)(3), and an owner or operator of a lead recovery furnace that is subject to regulation under the Secondary Lead Smelting NESHAP of federal subpart X of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting) must comply with the requirements of subsection (h):

A) Provide a one-time written notice to the Agency indicating the following:

i) The owner or operator claims exemption under subsection (d);

ii) The hazardous waste is burned solely for metal recovery consistent with the provisions of subsection (d)(2);

iii) The hazardous waste contains recoverable levels of metals; and

iv) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of subsection (d);

B) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of subsection (d) by using appropriate methods; and

C) Maintain at the facility for at least three years records to document compliance with the provisions of this subsection (d), including limits on levels of toxic organic constituents and Btu value of the waste and levels of recoverable metals in the hazardous waste compared to normal non-hazardous waste feedstocks.

2) A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:

A) The hazardous waste has a total concentration of organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 exceeding 500 ppm by weight, as fired, and is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited, and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C); or

B) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C).

3) To be exempt from Sections 726.202 through 726.211, an owner or operator of a lead, nickel-chromium, or mercury recovery furnace, except for an owner or operator of a lead recovery furnace that is subject to regulation under the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the Agency identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under subsection (d)(3) or subsection (d)(1). The owner or operator must comply with the requirements of subsection (d)(1) for those wastes claimed to be exempt under that subsection and must comply with the following requirements for those wastes claimed to be exempt under subsection (d)(3):

A) The hazardous wastes listed in Appendices K, L, and M and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of subsection (d)(1), provided the following are true:

i) A waste listed in Appendix K must contain recoverable levels of lead, a waste listed in Appendix L must contain recoverable levels of nickel or chromium, a waste listed in Appendix M must contain recoverable levels of mercury and contain less than 500 ppm of Appendix H to 35 Ill. Adm. Code 721 organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;

ii) The waste does not exhibit the toxicity characteristic of 35 Ill. Adm. Code 721.124 for an organic constituent;

iii) The waste is not a hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 because it is listed for an organic constituent, as identified in Appendix G of 35 Ill. Adm. Code 721; and

iv) The owner or operator certifies in the one-time notice that hazardous waste is burned in compliance with the provisions of subsection (d)(3) and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis must be conducted according to subsection (d)(1)(B), and records to document compliance with subsection (d)(3) must be kept for at least three years.

B) The Agency may decide, on a case-by-case basis, that the toxic organic constituents in a material listed in Appendix K, Appendix L, or Appendix M that contains a total concentration of more than 500 ppm toxic organic compounds listed in Appendix H of 35 Ill. Adm. Code 721 may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of Subpart H. Under these circumstances, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of Subpart H when burning that material. In making the hazard determination, the Agency must consider the following factors:

i) The concentration and toxicity of organic constituents in the material;

ii) The level of destruction of toxic organic constituents provided by the furnace; and

iii) Whether the acceptable ambient levels established in Appendix D or E will be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

e) The standards for direct transfer operations under Section 726.211 apply only to facilities subject to the permit standards of Section 726.202 or the interim status standards of Section 726.203.

f) The management standards for residues under Section 726.212 apply to any BIF burning hazardous waste.

g) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these metals are conditionally exempt from regulation under Subpart H, except for Section 726.212. To be exempt from Sections 726.202 through 726.211, an owner or operator must do the following:

1) Provide a one-time written notice to the Agency indicating the following:

A) The owner or operator claims exemption under this Section,

B) The hazardous waste is burned for legitimate recovery of precious metal, and

C) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this Section;

2) Sample and analyze the hazardous waste, as necessary, to document that the waste is burned for recovery of economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metal; and

3) Maintain, at the facility for at least three years, records to document that all hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.

h) An owner or operator of a lead recovery furnace that processes hazardous waste for recovery of lead and which is subject to regulation under the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, is conditionally exempt from regulation under Subpart H, except for Section 726.201. To become exempt, an owner or operator must provide a one-time notice to the Agency identifying each hazardous waste burned and specifying that the owner or operator claims an exemption under subsection (h). The notice also must state that the waste burned has a total concentration of non-metal compounds listed in Appendix H of 35 Ill. Adm. Code 721 of less than 500 ppm by weight, as fired and as provided in subsection (d)(2)(A), or is listed in Appendix K.

i) Abbreviations and Definitions. The following definitions and abbreviations are used in Subpart H:

"APCS" means air pollution control system.

"BIF" means boiler or industrial furnace.

"Carcinogenic metals" means arsenic, beryllium, cadmium, and chromium.

"CO" means carbon monoxide.

"Continuous monitor" is a monitor that continuously samples the regulated parameter without interruption, that evaluates the detector response at least once each 15 seconds, and that computes and records the average value at least every 60 seconds.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(i)(B)(*1*)(*i*) and (e)(6)(ii)(B)(*1*).

"DRE" means destruction or removal efficiency.

"cu m" or "m3" means cubic meters.

"E" means "ten to the power". For example, "XE-Y" means "X times ten to the -Y power".

"Feed rates" are measured as specified in Section 726.202(e)(6).

"Good engineering practice stack height" is as defined by federal 40 CFR 51.100(ii) (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

"HC" means hydrocarbon.

"HCl" means hydrogen chloride gas.

"Hourly rolling average" means the arithmetic mean of the 60 most recent one-minute average values recorded by the continuous monitoring system.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(i)(B)(*1*)(*ii*).

"K" means Kelvin.

"kVA" means kilovolt amperes.

"MEI" means maximum exposed individual.

"MEI location" means the point with the maximum annual average off-site (unless on-site is required) ground level concentration.

"Noncarcinogenic metals" means antimony, barium, lead, mercury, thallium, and silver.

"One hour block average" means the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(ii)(B)(*2*).

"PIC" means product of incomplete combustion.

"PM" means particulate matter.

"POHC" means principal organic hazardous constituent.

"ppmv" means parts per million by volume.

"QA/QC" means quality assurance and quality control.

"Rolling average for the selected averaging period" means the arithmetic mean of one hour block averages for the averaging period.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(ii)(B)(*2*).

"RAC" means reference air concentration, the acceptable ambient level for the noncarcinogenic metals for this Subpart. RACs are specified in Appendix D.

"RSD" means risk-specific dose, the acceptable ambient level for the carcinogenic metals for this Subpart. RSDs are specified in Appendix E.

"SSU" means "Saybolt Seconds Universal," a unit of viscosity measured by ASTM D 88-87 (Standard Test Method for Saybolt Viscosity) or D 2161-87 (Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

"TCLP test" means Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), as used for 35 Ill. Adm. Code 721.124.

"TESH" means terrain-adjusted effective stack height (in meters).

"Tier I". See Section 726.206(b).

"Tier II". See Section 726.206(c).

"Tier III". See Section 726.206(d).

"Toxicity equivalence" is estimated, under Section 726.204(e), using section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (see Appendix I).

"µg" means microgram.

(Source: Amended at 48 Ill. Reg. 17108, effective November 7, 2024)