**Section 726.303 Standards Applicable to the Transportation of Solid Waste Military Munitions**

a) Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Transportation

1) Waste military munitions that are being transported and which exhibit a hazardous waste characteristic or which are listed as hazardous waste pursuant to 35 Ill. Adm. Code 721 are subject to regulation pursuant to 35 Ill. Adm. Code 702, 703, 705, 720 through 728, and 738, unless the munitions meet all the following conditions:

A) The waste military munitions are not chemical agents or chemical munitions;

B) The waste military munitions are transported in accordance with the Department of Defense shipping controls applicable to the transport of military munitions;

C) The waste military munitions are transported from a military-owned or -operated installation to a military-owned or -operated treatment, storage, or disposal facility; and

D) The transporter of the waste must provide oral notice to the Agency within 24 hours from the time when either the transporter becomes aware of any loss or theft of the waste military munitions or when any failure to meet a condition of subsection (a)(1) occurs that may endanger human health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time when the transporter becomes aware of any loss or theft of the waste military munitions or when any failure to meet a condition of subsection (a)(1) occurs.

2) If any waste military munitions shipped pursuant to subsection (a)(1) are not received by the receiving facility within 45 days after the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the Agency within five days.

3) The conditional exemption from regulation as hazardous waste in subsection (a)(1) must apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment, or disposal.

4) The conditional exemption in subsection (a)(1) applies only so long as all of the conditions in subsection (a)(1) are met.

b) Reinstatement of Conditional Exemption

1) If any waste military munition loses its conditional exemption pursuant to subsection (a)(1), the transporter may file with the Agency an application for reinstatement of the conditional exemption from hazardous waste transportation regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subsection (a)(1).

2) If the Agency finds that reinstatement of the conditional exemption is appropriate, it must reinstate the conditional exemption of subsection (a)(1) in writing. The Agency's decision to reinstate or not to reinstate the conditional exemption must be based on the nature of the risks to human health and the environment posed by the waste and either the transporter's provision of a satisfactory explanation of the circumstances of the violation or any demonstration that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. In reinstating the conditional exemption pursuant to subsection (a)(1), the Agency may specify additional conditions as are necessary to ensure and document proper transportation to adequately protect human health and the environment. If the Agency does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement must be deemed granted, retroactive to the date of the application.

3) The Agency may terminate a conditional exemption reinstated by default pursuant to subsection (b)(2) in writing if it finds that reinstatement is inappropriate based on its consideration of the factors set forth in subsection (b)(2). If the Agency terminates a reinstated exemption, it must transmit to the applicant specific, detailed statements in writing as to the reasons it terminated the reinstated exemption.

4) The applicant pursuant to this subsection (b) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act.

c) Amendments to DOD Shipping Controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in subsection (a)(1)(B) are Government Bill of Lading (GBL) (GSA Standard Form 1103, supplemented as necessary with GSA Standard Form 1109), Requisition Tracking Form (DD Form 1348), the Signature and Talley Record (DD Form 1907), DOD Multimodal Dangerous Goods Declaration (DD Form 2890), and the Motor Vehicle Inspection Report (DD Form 626), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

BOARD NOTE: Corresponding federal provision 40 CFR 266.203(c), further provides as follows: "Any amendments to the Department of Defense shipping controls must become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in paragraph (a)(1)(ii) of this section have been amended." (40 CFR 266.203(a)(1)(ii) corresponds with 35 Ill. Adm. Code 726.303(a)(1)(B).) Section 5-75 of the Illinois Administrative Procedure Act [5 ILCS 100/5-75] prohibits the incorporation of later amendments and editions by reference. For this reason, interested persons or the Agency will need to notify the Board of any amendments of these references before those amendments can become effective under Illinois law.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)