

**CHAPTER 62-730  
HAZARDOUS WASTE**

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**62-730.001 Declaration and Intent.**

*Rulemaking Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.72, 403.721 FS. History—New 5-28-81, Amended 9-8-81, 12-6-81, 3-4-82, 5-19-83, 1-5-84, 7-22-85, Formerly 17-30.01, 17-30.001, 17-730.001, Amended 1-29-06, Repealed 2-16-12.*

**62-730.020 Definitions.**

(1) The Department adopts by reference the definitions contained in 40 Code of Federal Regulations (CFR) 260.10 revised as of July 1, 2008, and the amendment to the definition of "New hazardous waste management facility or new facility" in the Federal Register dated March 18, 2010 (75 FR 12989) <http://www.flrules.org/Gateway/reference.asp?No=Ref-00590>, except for the optional addition of "or 267.101" to subsection (2) of the definition of "facility" in the Federal Register dated September 8, 2005 (70 FR 53419).

(2) When the same word, phrase, or term is defined in Part IV of Chapter 403, F.S., and 40 CFR 260.10 and the definitions are not identical, the definitions as given in the state statute shall apply.

(3)(a) References to 40 CFR Part 261 [as adopted in subsection 62-730.030(1), F.A.C.] shall mean rules adopted by DEP

regarding identification of hazardous wastes; references to 40 CFR Part 262 [as adopted in subsection 62-730.160(1), F.A.C.] shall mean rules adopted by DEP regarding generators of hazardous wastes; references to 40 CFR Part 263 [as adopted in subsection 62-730.180(1), F.A.C.] shall mean rules adopted by DEP regarding transporters of hazardous wastes; references to 40 CFR Parts 264 [as adopted in subsection 62-730.180(1), F.A.C.] and 265 [as adopted in subsection 62-730.180(2), F.A.C.] shall mean rules adopted by DEP regarding treaters, storers, and disposers of hazardous wastes; references to 40 CFR Part 266 [as adopted in subsection 62-730.181(1), F.A.C.] shall mean rules adopted by DEP regarding standards for the management of specific hazardous wastes; references to 40 CFR Part 268 [as adopted in subsection 62-730.183, F.A.C.] shall mean rules adopted by DEP regarding land disposal restrictions; references to 40 CFR Part 273 [as adopted in subsection 62-730.185(1), F.A.C.] shall mean rules adopted by DEP regarding standards for universal waste management; and references to 40 CFR Parts 270 [as adopted in subsection 62-730.220(1), F.A.C.] and 124 [as adopted in subsection 62-730.200(3), F.A.C.] shall mean rules adopted by DEP regarding permitting of hazardous waste facilities or Section 403.722, F.S.

(b) Unless specifically indicated otherwise, when used in any provisions as may be adopted in this chapter from 40 CFR Parts 124 and 260 through 273: “United States” shall mean the State of Florida; “U.S. Environmental Protection Agency” or “EPA” shall mean DEP; and “Administrator” or “Regional Administrator” or “State Director” shall mean Secretary (including the Secretary’s designee, where appropriate).

1. Substitutions as described in paragraph (3)(b) of this section shall not be made in 40 CFR: 124.(6)(e); 124.10(c)(1)(ii); 260.10; 260.11(a); 261.10; 261.11; Part 261, Appendix IX; Part 262, Subparts E and F; 263.20(g)(4); 264.12(a)(1); 264.1082(c)(4)(ii); 265.12(a)(1); 265.1083(c)(4)(ii); 268.1(e)(3); 268.2(j); 268.13; 268.40(b); 270.2; 270.10(e)(2) and (3); 270.10(f)(2) and (3); 270.10(g)(1); 270.11(a)(3); 270.32(b)(2); 270.72(a)(5) and (b)(5); and 273.32(a)(3).

2. Substitutions as described in paragraph (3)(b) of this section shall not be made and alternative substitutions or deletions shall be made as described in the following:

- a. Replace “Waste Identification Branch (5304)” with “Characteristics Section (OS-333)” in 40 CFR 261.4(b)(11)(ii).
- b. Delete “in the Region where the sample is collected” in 40 CFR 261.4(e)(3)(iii).
- c. Delete “for the Region in which the generator is located” in 40 CFR 262.42(a)(2) and (b).
- d. Replace “a State” with “Florida” in 40 CFR 264.1(g)(1) and 265.1(c)(5).
- e. Replace “regional EPA Office” and “EPA regional office” with “Department district office” in 40 CFR 273.18(g), 273.38(g) and 273.61(c).

3. “Department” shall not be substituted for “EPA” in the 40 CFR as adopted for the following phrases: “EPA Identification Number”, “EPA identification number(s)”, “EPA ID number”, “EPA hazardous waste number(s)”, “EPA publication”, “EPA Acknowledgement of Consent”, and “EPA form”.

(c) Any reference to the Federal Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (RCRA) and its amendments, within 40 CFR Part 124 and Parts 260 through 273 as adopted by reference herein, shall be construed to refer to comparable provisions of the Florida Resource Recovery and Management Act (FRRMA) as established in Part IV of Chapter 403, F.S.

(d) References to Section 1004(5) of RCRA, which is the definition of hazardous waste, shall mean Section 403.703(21), F.S.

(e) References to Section 3010 of RCRA shall mean notification requirements of Florida Law.

(4) References in this chapter to individual sections of F.S and rule chapters shall be construed to include the qualifying phrase “as the statute, section, or rule chapter may be amended or renumbered from time to time” unless the mention in this chapter specifically states that the statute, section or rule chapter is “incorporated by reference.”

(5) Federal regulations adopted and incorporated by reference in this rule shall become effective 20 days after filing with the Secretary of State unless the Secretary stipulates a different date in the filing. However, no such federal regulation adopted as a state rule shall become effective earlier than the effective date of the federal regulation.

*Rulemaking Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.72, 403.721 FS. History—New 5-28-81, Amended 9-8-81, 12-6-81, 11-25-82, 5-19-83, 1-5-84, 8-24-84, 7-5-85, Formerly 17-30.02, Amended 9-19-86, 10-31-86, 4-13-88, Formerly 17-30.020, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.020, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 10-12-11.*

### **62-730.021 References, Variances and Case-by-Case Regulations.**

The Department adopts by reference the following Sections of 40 CFR Part 260 revised as of July 1, 2008: 260.11 except for the optional amendments to 260.11(c)(1), 260.11(c)(3)(xxvii) and 260.11(d)(1) in the Federal Register dated September 8, 2005 (70 FR 53419); 260.21; 260.23; 260.30; 260.31; 260.32; 260.33; 260.40 and 260.41. The language of 40 CFR 260.11 in effect on September 8, 2005 remains in effect. The Department adopts by reference the March 18, 2010 (75 FR 12989) <http://www.flrules.org/Gateway/reference.asp?No=Ref-00590> Federal Register which deletes Appendix I of Part 260.

*Rulemaking Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.721 FS. History—New 7-5-85, Formerly 17-30.021, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.021, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 10-12-11.*

### **62-730.030 Identification of Hazardous Waste.**

(1) The Department adopts by reference 40 CFR Part 261 revised as of July 1, 2008, and all appendices, the amendments to 40 CFR Part 261 as published in the Federal Register dated December 1, 2008 (73 FR 72912), the corrections as published in the Federal Register dated March 18, 2010 (75 FR 12989) <http://www.flrules.org/Gateway/reference.asp?No=Ref-00590>, the partial withdrawal of the corrections published in the Federal Register dated June 4, 2010 (75 FR 31716) <http://www.flrules.org/Gateway/reference.asp?No=Ref-00591>, and the amendments to 261.4(a)(16) and 261.38 as published in the Federal Register dated June 15, 2010 (75 FR 33712) <http://www.flrules.org/Gateway/reference.asp?No=Ref-00592>, with the exceptions described in paragraphs (1)(a) through (d) of this section.

(a) 40 CFR 261.4(b)(16) [Reserved].

(b) Errors to be corrected as follows:

1. In 40 CFR 261.21(a)(3), replace “an ignitable compressed gas as defined in 49 CFR 173.300” with “a flammable gas as defined in 49 CFR 173.115(a).”

2. In 40 CFR 261.21(a)(4) replace “an oxidizer as defined in 49 CFR 173.151” with “an oxidizer as defined in 49 CFR 173.127(a).”

(c) The optional amendments to 40 CFR 261.4(b) in the Federal Registers dated May 20, 1992 (57 FR 21524), July 1, 1992 (57 FR 29220) and February 11, 1999 (64 FR 6806).

For the optional amendments in paragraph (1)(c) of this section, the language in effect immediately prior to the effective date of the referenced Federal Registers remains in effect. 40 CFR Part 261 [as adopted in subsection 62-730.030(1), F.A.C.] contains EPA’s rules on the identification and listing of hazardous waste. No delisting is effective until it is adopted by the Department.

(d) The optional addition of “267” to 40 CFR 261.7(a)(1) in the Federal Register dated September 8, 2005 (70 FR 53419) and the optional amendments to 40 CFR 261.3(a)(2)(iv)(A), (B), (D), (F) and (G) in the Federal Register dated October 4, 2005 (70 FR 57769). For the optional amendments in paragraph (1)(c) and (d) of this section, the language in effect on the date of the referenced Federal Registers remains in effect. 40 CFR Part 261 [as adopted in subsection 62-730.030(1), F.A.C.] contains EPA’s rules on the identification and listing of hazardous waste. No delisting is effective until it is adopted by the Department.

(2) 40 CFR 261.5(g)(3)(iii) shall refer to hazardous waste management programs approved by EPA.

(3) A conditionally exempt small quantity generator (CESQG) which chooses to send its hazardous waste to an off-site treatment, storage or disposal facility shall document delivery of its hazardous waste through written receipts and other records which are retained for at least three years. The written receipts and other records shall include names and addresses of the generator and the treatment, storage or disposal facility, the type and amount of hazardous waste delivered, and the date of shipment.

(4) 40 CFR 261.2(f) [as adopted in subsection 62-730.030(1), F.A.C.] requires respondents in actions to enforce regulations to provide appropriate documentation to support their claim that a material is not a solid waste or is conditionally exempt from regulation.

(a) With respect to a claim that a substance (which if otherwise disposed of would be a hazardous waste under this chapter) is not a solid waste because it is a mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment under 40 CFR 261.4(a)(1) [as adopted in subsection 62-730.030(1), F.A.C.], “appropriate documentation” shall mean a copy of notification to the POTW and the Department in accordance with the requirements of subsection 62-625.600(15), F.A.C., including a copy of the certification required by paragraph 62-625.600(15)(d), F.A.C. In order to avoid a penalty for disposal of hazardous waste without proper notification, the documentation must have been submitted to the POTW on a date prior to the date of the Department’s inspection of the facility and prior to the Department’s

request for such documentation. This provision applies to all hazardous waste generators, including CESQGs, which discharge more than 15 kilograms of non-acute hazardous wastes in any calendar month, or any quantity of acute hazardous wastes.

(b) With respect to a claim that hazardous waste is exempt from regulation because it was disposed of or generated by one or more CESQGs who meet the requirements of 40 CFR 261.5 [as adopted in subsection 62-730.030(1), F.A.C.] “appropriate documentation” shall mean written records from each applicable CESOG, detailing the quantities of hazardous waste generated by that CESOG, and the method and location of disposal of such hazardous waste.

*Rulemaking Authority 403.72, 403.721, 403.8055 FS. Law Implemented 403.72, 403.721 FS. History—New 5-28-81, Amended 9-8-81, 12-6-81, 3-4-82, 11-25-82, 5-19-83, 1-5-84, 8-24-84, 12-18-84, 7-5-85, 10-3-85, Formerly 17-30.03, Amended 5-5-86, 8-25-86, 9-19-86, 10-31-86, 3-31-87, 4-13-88, Formerly 17-30.030, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.030, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 6-8-10, 10-12-11.*

### **62-730.100 Availability of Information.**

*Rulemaking Authority 403.704, 403.722 FS. Law Implemented 403.111, 403.704, 403.722, 403.73 FS. History—New 7-9-82, Formerly 17-30.31, Amended 9-23-87, 6-28-88, Formerly 17-30.310, Amended 10-7-93, Formerly 17-730.310, 62-730.310, 62-730.310, Amended 1-29-06, Repealed 2-16-12.*

### **62-730.150 General.**

(1) All references to the term “interim status” in the EPA regulations adopted by reference herein shall not be applicable to these rules. The standards contained in 40 CFR Part 265 [as adopted by reference in subsection 62-730.180(2), F.A.C.], adopted by reference herein, shall apply to existing facilities in operation upon the effective date of this rule and to a facility which is in existence on the effective date of a rule change by the Department which would for the first time require the facility to obtain a hazardous waste permit.

(2)(a) All generators (except generators that are conditionally exempt pursuant to 40 CFR 261.5 [as adopted in subsection 62-730.030(1), F.A.C.]), all transporters, and all persons who own or operate a facility which treats, stores, or disposes of hazardous waste, must notify the Department using Form 62-730.900(1)(b), “8700-12FL – Florida Notification of Regulated Waste Activity,” effective date January 4, 2009, which is hereby adopted and incorporated by reference, unless they have previously notified. This form can be obtained on the internet at [http://www.dep.state.fl.us/waste/quick\\_topics/forms/pages/62-730.htm](http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-730.htm) or by contacting the Hazardous Waste Regulation Section, MS 4560, Division of Waste Management, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. In addition, transporters are subject to the reporting requirements of Rule 62-730.170, F.A.C.

(b) All generators, transporters, or persons who own or operate a facility which treats, stores, or disposes of hazardous waste, and everyone required to notify under Rule 62-730.181, F.A.C., shall notify the Department of all changes in status and shall use the “8700-12FL – Florida Notification of Regulated Waste Activity,” Form 62-730.900(1)(b), [adopted by reference in paragraph 62-730.150(2)(a), F.A.C.], to do so. Changes in status include, but are not limited to: changes in the facility name, location, mailing address, business form, ownership or management control of the facility or its operations; ownership of the real property where the facility is located; facility contact person; type of regulated waste activity; going out of business; tax default; or petition for bankruptcy protection.

(3) The “2005 Hazardous Waste Report Form, Form 62-730.900(8), effective date January 29, 2006,” is hereby adopted and incorporated by reference. Rule 62-730.900, F.A.C., contains information on obtaining a copy of this form.

(4) Upon written request of the Department for specific information concerning waste management activities, any person who generates, treats, stores, transports, disposes of, or otherwise handles, or has handled, or proposes to handle hazardous waste, and any person who owns or operates a hazardous waste facility, shall furnish all requested information relating to such waste or handling to the Department within 30 days of receipt of the Department’s request.

(5) With respect to training requirements for owners and operators of hazardous waste treatment, storage and disposal facilities and generators, “annual review” shall be computed based on the calendar year.

(6)(a) The Department has initiated a compliance assistance pilot program (CAPP), addressed to solid and hazardous wastes generated during the act or process of repairing or modifying the mechanical components of automobiles and/or light trucks. For the purpose of this rule, “light truck” means a two-axle vehicle with a gross vehicle weight of 8,500 pounds or less. The purpose of the CAPP is to provide detailed, focused written and electronic informational materials; to collect information on current waste

management practices; to optimize the Department's compliance resources; and to develop performance measures for determining the impact of the innovative technique.

(b) As part of the CAPP, the Department will mail compliance certification packages. Each recipient of the package entitled "Compliance Assistance Pilot Project – Florida's Compliance Certification Package" from the Department (the recipient), shall, on or before the date which is 45 days after receipt of the package, follow the instructions included in the package. The instructions include how to complete and submit the appropriate DEP forms.

(c) The recipient shall complete Form 62-730.900(7)(b), CAPP Compliance Certification Form, effective date October 10, 2002, which is hereby adopted and incorporated by reference, if the recipient:

1. Owns or operates an automotive repair shop (a shop) in the Department's Northeast District or Northwest District; and
2. The shop engages in the repair or modification of light truck or automobile engines, brakes, mufflers, or transmissions/transmission axles, unless the shop is excluded in paragraph 62-730.150(6)(d), F.A.C. Rule 62-730.900, F.A.C., contains information on obtaining a copy of this form.

(d) The recipient is excluded if, at the same location, the shop:

1. Has or is part of a gasoline station, truck stop, automotive auction facility, salvage dealership, new car or light truck dealership, used car or light truck dealership, motorcycle dealership, or recreational vehicle (RV) dealership; or
2. Has a paint spray booth; or
3. Is engaged only in one or more of the following: car wash, diagnostic services, lube/oil change, mobile repair, electric systems repairs, glass/window repairs, or exhaust system repair.

(e) Only one CAPP Compliance Certification Form is required for each shop that meets the criteria of paragraph 62-730.150(6)(c), F.A.C. The CAPP Compliance Certification Form must be signed by a responsible official, which means one of the following:

1. The shop owner, if the shop is owned by a sole proprietorship; or
2. A general partner, if the shop is owned by a partnership; or
3. A corporate officer, if the shop is owned by a corporation; or
4. The most senior manager of the shop, if the shop is owned by a corporation or a governmental agency and the senior manager is authorized by corporate vote or by terms of employment to act on behalf of the owner with respect to regulatory matters.

(f) Any recipient that is excluded under paragraph 62-730.150(6)(d), F.A.C., need only submit Form 62-730.900(7)(a), CAPP Exclusion Statement, effective date October 10, 2002, which is hereby adopted and incorporated by reference. However, recipients who are excluded are encouraged to also complete and submit a CAPP Compliance Certification Form. Rule 62-730.900, F.A.C., contains information on obtaining a copy of these forms.

(g) If the CAPP Compliance Certification Form indicates any non-compliance items, the recipient must concurrently submit Form 62-730.900(7)(c), CAPP Return-to-Compliance Plan, effective date October 10, 2002, which is hereby adopted and incorporated by reference. Rule 62-730.900, F.A.C., contains information on obtaining a copy of this form. The CAPP Return-to-Compliance Plan shall:

1. Indicate the requirement in violation;
2. Indicate what will be done to return to compliance; and
3. Indicate the date by which compliance will be achieved.

(h) The CAPP Compliance Certification Form must include the following statements: "I [name of responsible official] on behalf of [name of automotive repair shop] certify that I am familiar with the information contained in this submittal, including any and all documents accompanying this form. Based on my inquiry of those individuals responsible for obtaining the information, the information is to the best of my knowledge true, complete and accurate on the date that I sign. Systems to maintain compliance are in place at this automotive repair shop, and will be maintained even if processes or operating procedures change. If any non-compliance items were identified in the compliance certification process, this automotive repair shop will return to compliance in accordance with the plan proposed in the attached CAPP Return-to-Compliance Plan. I realize that other federal, state or local environmental laws, including more stringent county and municipal requirements, may apply to my shop, and I acknowledge that my shop must comply with all environmental laws even if they are not included in this form. I am fully authorized to make this certification on behalf of this shop, and I am aware that under Florida law there are significant penalties (e.g. fines up to \$50,000 per day) for knowingly submitting any false statement, representation, or certification."

(7) No person shall refuse reasonable entry or access to any authorized representative of the department who requests entry for

purposes of inspection pursuant to Section 403.091, F.S., and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection.

*Rulemaking Authority 403.0611, 403.087, 403.704, 403.721, 403.7234, 403.8055 FS. Law Implemented 403.061, 403.0611, 403.091, 403.151, 403.704, 403.721, 403.722, 403.7222, 403.7234 FS. History—New 5-19-82, Amended 1-5-84, 7-5-85, 7-22-85, Formerly 17-30.15, Amended 5-5-86, Formerly 17-30.150, Amended 8-13-90, 10-14-92, 10-7-93, Formerly 17-730.150, Amended 1-5-95, 9-7-95, 10-10-02, 10-1-04, 1-29-06, 4-22-07, 1-4-09.*

#### **62-730.160 Standards Applicable to Generators of Hazardous Waste.**

(1) The Department adopts by reference 40 CFR Part 262 revised as of July 1, 2010 <http://www.flrules.org/Gateway/reference.asp?No=Ref-00595>, including the Appendix with the exception of 40 CFR 262.34(e) and the Project XL site-specific regulations in 262.10(j) and Subparts I and J.

(2) A primary exporter of hazardous waste shall file a copy of the advance notification required by 40 CFR 262.53, the annual reports required by 40 CFR 262.56, and the exception reports required by 40 CFR 262.55 with the Department.

(3) References in 40 CFR 262.34(f) [as adopted in subsection 62-730.160(1), F.A.C.] to on-site accumulation of hazardous waste for up to 270 days by generators of greater than 100 kg but less than 1000 kg of hazardous waste in a calendar month shall not apply. Such waste may only be accumulated on-site for 180 days or less without a permit.

(4) Generators of hazardous waste shall complete the following sections of the Uniform Hazardous Waste Manifest: Items 1 through 15 and the applicable parts of item 16, if required for international shipments, on Form 8700-22, and Items 21 through 32, on Form 8700-22A. Copies of a list of vendors which supply the form and instructions may be obtained by contacting the Hazardous Waste Management Section, MS 4555, Division of Waste Management, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(5) Generators of 1000 kilograms or greater of hazardous waste in a calendar month shall submit biennial reports required by 40 CFR 262.41 [as adopted in subsection 62-730.160(1), F.A.C.] to the Department on Form 62-730.900(8) (“2005 Hazardous Waste Report Form”). Rule 62-730.900, F.A.C., contains information on obtaining a copy of this form and instructions.

(6) Generators of hazardous waste who accumulate hazardous waste on-site under 40 CFR 262.34, shall maintain written documentation of the inspections required under 40 CFR Part 265. The generator shall keep the written documentation of the inspections under this section for at least three years from the date of the inspection. At a minimum, this documentation shall include the date and time of the inspection, the legibly printed name of the inspector, the number of containers, the condition of the containers, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

(7) Generators shall maintain adequate aisle space between containers of hazardous waste to allow for inspection of the condition and labels of the individual containers.

*Rulemaking Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.72, 403.721 FS. History—New 5-19-82, Amended 5-20-82, 3-31-83, 1-5-84, 2-2-84, 8-24-84, 7-5-85, 10-3-85, Formerly 17-30.16, Amended 9-19-86, 10-31-86, 3-31-87, 5-26-87, 6-28-88, Formerly 17-30.160, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.160, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 6-8-10, 10-12-11.*

#### **62-730.161 Emergency Identification Numbers.**

(1) 40 CFR 262.12(a) requires all generators to obtain an EPA identification number before offering hazardous waste for transport. Under certain special circumstances, the Department processes applications for an emergency identification number [referred to as an emergency EPA/DEP I.D. number]. These special circumstances are:

- (a) Emergency situations such as spills;
- (b) Cleanup of abandoned sites; and
- (c) One-time cleanup of a site that does not normally generate hazardous waste, and will not generate waste in the foreseeable future.

(2) In order to apply for an emergency EPA/DEP I.D. number, the generator of the hazardous waste(s) shall:

(a) Send the Department a completed Form 62-730.900(3), Application for a Hazardous Waste Emergency EPA/DEP Identification Number (“Emergency I.D. Form”), effective date January 5, 1995, which is hereby adopted and incorporated by reference. Rule 62-730.900, F.A.C., contains information on obtaining a copy of this form; and

(b) Follow the instructions on the form.

(3) For the purpose of this section:

(a) An “emergency situation” shall mean a sudden release of hazardous waste or hazardous materials during transportation or at a product storage facility.

(b) A “one-time cleanup” shall mean removal of hazardous waste where: waste has been abandoned on a property; the property is under bankruptcy proceedings or an administrative, civil, criminal, or judicial proceeding to compel facility closure; or any other situation which necessitates a one-time cleanup or removal of hazardous waste.

(4) Pursuant to Sections 403.721 and 403.727, F.S., it is a violation of this rule for a generator to:

(a) Provide false or incorrect information on the DEP Emergency I.D. Form.

(b) Ship hazardous wastes not listed on the DEP Emergency I.D. Form.

(c) Ship a greater volume of hazardous waste than listed on the DEP Emergency I.D. Form without delivering, within 24 hours of the shipment, a written explanation of the reason for exceeding the original estimated volume.

(d) Ship hazardous waste after 60 days from the issue date of the emergency EPA/DEP I.D. number.

(e) Fail to send the Department a legible copy of all signed and returned manifests and the land disposal restriction notices and certifications required under 40 CFR 268.7 for the hazardous wastes shipped under the emergency EPA/DEP I.D. number within 45 days of the last shipment.

(5) A generator with an emergency EPA/DEP I.D. number who generates greater than 1000 kg of hazardous waste in a calendar month, shall submit a biennial report as described in subsection 62-730.160(5), F.A.C.

*Rulemaking Authority 403.704, 403.72, 403.721, 403.727 FS. Law Implemented 403.704, 403.721 FS. History—New 1-5-95, Amended 1-29-06.*

#### **62-730.170 Standards Applicable to Transporters of Hazardous Waste.**

(1) The Department adopts by reference 40 CFR Part 263 revised as of July 1, 2010 <http://www.flrules.org/Gateway/reference.asp?No=Ref-00602>.

(2) In addition to the requirements of subsection (1) of this rule, no person shall transport a hazardous waste within the state for which either a manifest is required under 40 CFR Part 262 [as adopted in subsection 62-730.160(1), F.A.C.] or a reclamation agreement is entered between a generator and recycler pursuant to 40 CFR 263.20 [as adopted in subsection 62-730.170(1), F.A.C.] unless compliance with the following special requirements have been demonstrated.

(a) The transporter shall have and maintain financial responsibility for sudden accidental occurrences in a minimum amount of \$1,000,000 per occurrence for combined coverage of injury to persons and for damage to property and the environment from the spillage of hazardous waste while such wastes are being transported including the costs of cleaning up the spill. Such financial responsibility shall be issued by an agent or company authorized or licensed to transact business in the State of Florida. Such financial responsibility shall be maintained at all times, be exclusive of legal defense costs, and be established by any one or a combination of the following:

1. Evidence of casualty/liability insurance on an occurrence basis with or without a deductible. With the deductible the Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. Each insurance policy must be evidenced by a certificate of liability insurance or amended by attachment of an endorsement.

2. Surety bonds.

(b) Evidence of coverage shall include submittal of an originally signed copy of one or more of the following forms, which are hereby adopted and incorporated by reference:

1. Hazardous Waste Transporter Certificate of Liability Insurance, Form 62-730.900(5)(a), effective date January 29, 2006.

2. Hazardous Waste Transporter Liability Endorsement, Form 62-730.900(5)(b), effective date January 29, 2006

3. Hazardous Waste Transporter Liability Surety Bond, Form 62-730.900(5)(c), effective date January 29, 2006.

Rule 62-730.900, F.A.C., contains information on obtaining a copy of these forms.

(c) The insurance policy, including all endorsements, or the liability surety bond must be maintained at the carrier’s principal place of business.

(d) Whenever requested by the Secretary (or designee) of the Florida Department of Environmental Protection, the Insurer agrees to furnish to the Department a signed duplicate original of the policy and all endorsements.

(e) The transporter shall annually submit to the Department two originally signed Transporter Status Forms, Form 62-730.900(5)(d), effective date January 5, 1995, which is hereby adopted and incorporated by reference. Rule 62-730.900, F.A.C.,

contains information on obtaining a copy of this form. The Department shall complete the approval part of the form and return one of the originally signed forms to the transporter after verifying that the transporter is complying with the financial responsibility requirements of this section. A copy of this form complete with the Department approval shall be carried in each vehicle transporting hazardous waste for the transporter. This approval is non-transferable and non-assignable.

(f) This subsection does not apply to any person who transports hazardous waste only on the site of a hazardous waste generator or a permitted hazardous waste treatment, storage, or disposal facility.

(g) States and the federal government are exempt from the requirements of this subsection.

(3) Evidence of financial responsibility, updated for the current year, shall be verified annually by the submission of the appropriate form described in paragraph (2)(b) of this section or by the submission of a certificate of insurance. A certificate of insurance shall include a certification by the insurer that the original insurance policy and all endorsements are still in full force and effect as evidenced on the original forms submitted to the Department.

*Rulemaking Authority 403.704, 403.721, 403.724, 403.8055 FS. Law Implemented 403.704, 403.721, 403.724 FS. History—New 11-8-81, Amended 5-31-84, 9-13-84, Formerly 17-30.17, Amended 9-19-86, 3-31-87, 5-26-87, 6-28-88, Formerly 17-30.170, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.170, Amended 1-5-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 10-12-11.*

### **62-730.171 Transfer Facilities.**

(1) 40 CFR 263.12 [as adopted by reference in subsection 62-730.170(1), F.A.C.] provides that transporters who store manifested hazardous waste in proper containers at a transfer facility for 10 days or less are exempt from regulation as a hazardous waste facility. If the waste is stored for more than 10 days, the facility is subject to the permitting requirements for a hazardous waste storage facility.

(2)(a) The transporter who is owner or operator of a transfer facility which stores manifested shipments of hazardous waste for more than 24 hours but 10 days or less (hereinafter referred to as “the transfer facility”) shall obtain an EPA/DEP identification number for each transfer facility location and notify the Department using Form 62-730.900(1)(b), “8700-12FL – Florida Notification of Regulated Waste Activity,” effective date January 4, 2009 [adopted by reference in paragraph 62-730.150(2)(a), F.A.C.].

(b) Notification pursuant to this subsection shall be submitted at least 30 days before the storage of hazardous waste is to begin at a transfer facility.

(c) The notification shall include the information and documentation required by subsection 62-730.171(3), F.A.C.

(d) The transfer facility shall annually submit updated information on Form 62-730.900(1)(b), “8700-12FL – Florida Notification of Regulated Waste Activity,” effective date January 4, 2009, which is adopted and incorporated by reference at paragraph 62-730.150(2)(a), F.A.C.

(3)(a) The following items constitute initial transfer facility notification:

1. Certification by a responsible corporate officer of the transporter that the proposed location satisfies the criteria of Section 403.7211(2), F.S. The Certification shall state a factual basis for the conclusion that the location criteria are met, and how those facts were determined.

2. Completed Form 62-730.900(1)(b), “8700-12FL – Florida Notification of Regulated Waste Activity,” effective date January 4, 2009, which is adopted and incorporated by reference at paragraph 62-730.150(2)(a), F.A.C.

3. Evidence of the transporter’s financial responsibility as required under subsection 62-730.170(3), F.A.C.

4. A brief general description of the transfer facility operations, including customer base, anticipated waste codes, operating procedures, structures and equipment (with the maximum design capacity for storage), including engineering drawings or sketches if any.

5. A copy of a closure plan demonstrating that the transfer facility will be closed in a manner which satisfies the closure performance, notification, and decontamination standards of 40 CFR 265.111, 265.112, 265.114 and 265.115 [as adopted by reference in subsection 62-730.180(2), F.A.C.].

6. A copy of the contingency and emergency plan required by paragraph 62-730.171(4)(a), F.A.C.

7. A map or maps of the transfer facility, depicting property boundaries, access control, buildings or other structures and pertinent features (such as recreation areas, runoff and stormwater control systems, access or internal roads, sanitary and process sewer systems, loading and unloading areas, and fire control equipment.)

(b) A transporter who is operating a transfer facility must notify the Department prior to making changes in any of the items listed in paragraph 62-730.171(3)(a), F.A.C.

(c) No person shall operate a transfer facility before receiving confirmation from the Department that the initial notification package is complete and technically adequate and receiving an EPA identification number for the transfer facility.

(4) A transfer facility shall comply with the following requirements:

(a) 40 CFR Part 265 Subparts B (general facility standards), C (preparedness and prevention), D (contingency and emergency plan), and I (management of containers), with the exception of 265.13, as adopted by reference in subsection 62-730.180(2), F.A.C.

(b) The aisle space requirements described in 40 CFR 265.35 and the special requirements for incompatible wastes described in 40 CFR 265.177(c) shall not apply at transfer facilities to containers stored in trucks loaded in accordance with DOT regulations described in 40 CFR 263.10 [as adopted by reference in subsection 62-730.170(1), F.A.C.].

(5) Hazardous waste stored at transfer facilities in containers or vehicles shall be stored on a manmade surface which is capable of preventing spills or releases to the ground.

(6) The transfer facility shall maintain a written record of the items listed below. This recordkeeping requirement applies to all hazardous waste that enters and leaves the transfer facility, including hazardous waste generated by CESQGs. Records required in this subsection shall be maintained in permanent form for at least three years and shall be available for inspection by the Department. The records shall be kept at the facility unless the Department gives written approval to do otherwise.

(a) Manifest number for each shipment that enters and leaves the facility, or, for a shipment from a CESQG without a manifest, an identifying number from the shipping document.

(b) The date when all hazardous waste enters and leaves the facility.

(c) The generator's name and the EPA/DEP identification number. For CESQGs without an EPA/DEP identification number, the record shall include the name and address of the generator.

(d) Amounts of hazardous waste and hazardous waste codes associated with each shipment into and out of the facility.

(7) Within 60 days of closure of the transfer facility, the transporter who is owner or operator of the transfer facility shall submit to the Department a certification that the facility has been closed in accordance with the specifications in the closure plan. The certification shall be signed by the owner or operator of the transfer facility, by the owner of the real property where the transfer facility is located, and by a Florida-registered, professional engineer.

(8) Construction, initial operation or substantial modification of a transfer facility which stores shipments of hazardous waste that are required to be manifested, and which does not comply with the location standards in Section 403.7211, F.S, is prohibited. A transporter operating a transfer facility is subject to the demonstration requirements of subsections 62-730.182(3)-(8), F.A.C., regarding substantial modification.

*Rulemaking Authority 403.0877, 403.704, 403.721 FS. Law Implemented 403.0877, 403.704, 403.721 FS. History--New 3-2-86, Amended 6-28-88, Formerly 17-30.171, Amended 8-13-90, 9-10-91, 10-14-92, Formerly 17-730.171, Amended 1-5-95, 1-29-06, 10-28-08, 1-4-09.*

### **62-730.180 Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities.**

(1) The Department adopts by reference 40 CFR Part 264 revised as of July 1, 2010 <http://www.flrules.org/Gateway/reference.asp?No=Ref-00603>, including all appendices, with the exceptions described in paragraphs (1)(a) through (c) of this section.

(a) The Project XL site-specific regulations and other site-specific regulations in 40 CFR 264.1(g)(12), 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).

(b) The following sections applicable only to unauthorized states: 40 CFR 264.1(f), 264.149 and 264.150.

(c) The following optional amendments:

1. The amendments to 40 CFR 264.141(h), 264.147(g)(1), 264.151(g) and 264.151(h)(2) in the Federal Register dated September 1, 1988 (53 FR 33938);

2. The amendments to 40 CFR 264.143(f)(10), 264.145(f)(11), 264.151(f), 264.151(g), 264.151(h)(1), and 264.151(h)(2) in the Federal Register dated September 16, 1992 (57 FR 42832); and

3. The amendments to 40 CFR 264.112(c) and 264.118(d) in the Federal Register dated September 28, 1988 (53 FR 37912).

For the optional amendments in paragraph (c) above, the language in effect immediately prior to the effective date of the referenced Federal Registers remains in effect.

(2) The Department adopts by reference 40 CFR Part 265 revised as of July 1, 2010 <http://www.flrules.org/Gateway/reference.asp?No=Ref-00604>, including all appendices, with the exceptions described in paragraphs (2)(a) through (e) of this section.

(a) Subpart R;

(b) The Project XL site-specific regulations in 40 CFR 265.1(c)(15), 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).

(c) The following sections applicable only to unauthorized states: 40 CFR 265.1(c)(4), 265.149 and 265.150.

(d) An error in 40 CFR 265.340(b)(2), which is hereby corrected by replacing it with 40 CFR 265.340(b)(2) as published in the September 30, 1999 Federal Register (64 FR 52828).

(e) The amendments to 40 CFR 265.141(h) and 265.147 in the Federal Register dated September 1, 1988 (53 FR 33938) and to 40 CFR 265.112(c) and 265.118(d) in the Federal Register dated September 28, 1988 (53 FR 37912).

For the optional amendments in paragraph (e) above, the language in effect immediately prior to the effective date of the referenced Federal Registers remains in effect.

(3) The Department adopts by reference 40 CFR 264.112(c)(1) and (2), 264.118(d)(1) and (2), 265.112(c)(3) and (4), 265.118(d)(3) and (4) revised as of July 1, 1988. The Department adopts by reference 40 CFR 264.143(f)(10), 264.145(f)(11), 264.147(g)(1), 264.151(f), 264.151(g), 264.151(h)(1), and 264.151(h)(2) revised as of July 1, 1988.

(4) Owners and operators of hazardous waste treatment, storage and disposal facilities shall submit biennial reports required by 40 CFR 264.75 [as adopted by reference in subsection 62-730.180(1), F.A.C.], and 265.75 [as adopted by reference in subsection 62-730.180(2), F.A.C.], to the Department on Form 62-730.900(8) ("2005 Hazardous Waste Report Form"). Rule 62-730.900, F.A.C, contains information on obtaining a copy of this form.

(5) The owner or operator of a permitted hazardous waste facility who desires to locate a transfer facility at the hazardous waste facility shall apply for a permit modification. The permit modification shall require public notice as described in Rule 62-730.292, F.A.C.

(6) Unless otherwise exempted from corrective action financial assurance requirements pursuant to state or federal law, the owner or operator of a hazardous waste facility shall demonstrate compliance with the financial assurance requirements of 40 CFR Part 264 Subpart H [as adopted by reference in subsection 62-730.180(1), F.A.C.], or 40 CFR Part 265 Subpart H [as adopted by reference in subsection 62-730.180(2), F.A.C.], by using the following forms, which are hereby adopted and incorporated by reference:

(a) Hazardous Waste Facility Letter from Chief Financial Officer to Demonstrate Financial Assurance for Closure, Post-Closure or Corrective Action, Form 62-730.900(4)(a), effective date January 5, 1995.

(b) Hazardous Waste Facility Letter from Chief Financial Officer to Demonstrate Financial Responsibility for Liability, Closure, Post-Closure or Corrective Action, Form 62-730.900(4)(b), effective date January 5, 1995.

(c) Hazardous Waste Facility Corporate Guarantee to Demonstrate Financial Assurance for Closure, Post-Closure or Corrective Action, Form 62-730.900(4)(c), effective date January 5, 1995.

(d) Hazardous Waste Facility Corporate Guarantee for Liability Coverage, Form 62-730.900(4)(d), effective date January 5, 1995.

(e) Hazardous Waste Facility Trust Fund Agreement to Demonstrate Financial Assurance for Closure, Post-Closure or Corrective Action, Form 62-730.900(4)(e), effective date January 5, 1995.

(f) Hazardous Waste Facility Standby Trust Fund Agreement to Demonstrate Financial Assurance for Closure, Post-Closure or Corrective Action, Form 62-730.900(4)(f), effective January 5, 1995.

(g) Hazardous Waste Facility Irrevocable Letter of Credit to Demonstrate Financial Assurance for Closure, Post-Closure, or Corrective Action, Form 62-730.900(4)(g), effective date January 5, 1995.

(h) Hazardous Waste Facility Financial Guarantee Bond to Demonstrate Financial Assurance for Closure, Post-Closure or Corrective Action, Form 62-730.900(4)(h), effective date January 5, 1995.

(i) Hazardous Waste Facility Performance Bond to Demonstrate Financial Assurance for Closure, Post-Closure or Corrective Action, Form 62-730.900(4)(i), effective date January 5, 1995.

(j) Hazardous Waste Facility Insurance Certificate to Demonstrate Financial Assurance for Closure, Post-Closure or Corrective Action, Form 62-730.900(4)(j), effective date January 5, 1995.

(k) Hazardous Waste Facility Certificate of Liability Insurance (Primary Policy), Form 62-730.900(4)(k), effective date January

5, 1995.

(l) Hazardous Waste Facility Certificate of Liability Insurance (Excess/Surplus Policy), Form 62-730.900(4)(l), effective date January 5, 1995.

(m) Hazardous Waste Facility Endorsement (Primary Policy), Form 62-730.900(4)(m), effective date January 5, 1995.

(n) Hazardous Waste Facility Endorsement (Excess/Surplus Policy), Form 62-730.900(4)(n), effective date January 5, 1995.

(o) Hazardous Waste Facility Letter Of Credit to Demonstrate Liability Coverage, Form 62-730.900(4)(o), effective date January 29, 2006.

(p) Hazardous Waste Facility Surety Bond to Demonstrate Liability Coverage, Form 62-730.900(4)(p), effective date January 29, 2006.

(q) Hazardous Waste Facility Trust Fund to Demonstrate Liability Coverage, Form 62-730.900(4)(q), effective date January 29, 2006.

(r) Hazardous Waste Facility Standby Trust Fund to Demonstrate Liability Coverage, Form 62-730.900(4)(r), effective date January 29, 2006.

Rule 62-730.900, F.A.C., contains information on obtaining copies of these forms.

*Rulemaking Authority 403.704, 403.721, 403.724, 403.8055 FS. Law Implemented 403.704, 403.721, 403.724 FS. History—New 5-19-82, Amended 3-4-82, 5-20-82, 7-14-82, 8-30-82, 10-7-82, 11-25-82, 2-3-83, 3-31-83, 5-19-83, 1-5-84, 2-2-84, 11-7-84, 7-5-85, 10-3-85, Formerly 17-30.18, Amended 5-5-86, 9-19-86, 10-31-86, 3-31-87, 4-13-88, 6-28-88, Formerly 17-30.180, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.180, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 10-12-11.*

#### **62-730.181 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.**

(1) The Department adopts by reference 40 CFR Part 266 revised as of July 1, 2010 <http://www.flrules.org/Gateway/reference.asp?No=Ref-00605>.

(2) Owners or operators of facilities claiming exemption to regulations under 40 CFR 266.20(b) shall maintain detailed operations records that may be used to determine if the claim of exemption is valid. The records shall be retained for at least three years and be made available to the Department upon request.

*Rulemaking Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.721 FS. History—New 7-5-85, Amended 10-3-85, 5-5-86, 4-13-88, Formerly 17-30.181, Amended 1-25-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.181, Amended 1-5-95, 9-7-95, 2-25-96, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 10-12-11.*

#### **62-730.182 Criteria to Determine Whether Changes Constitute a “Substantial Modification” at Certain Existing Hazardous Waste Facilities That Are Otherwise Exempt From Statutory Location Standards.**

(1) This section applies only to transfer facilities which store shipments of hazardous waste that are required to be manifested and to facilities, including federal facilities, which treat, store, or dispose of shipments of hazardous waste generated off-site that are required to be manifested. This section does not apply to:

(a) Manufacturers, power generators, or other industrial operations that received a permit from the Department, or apply for a permit or a modification to a permit for the treatment, storage, or disposal of hazardous waste generated only on-site or generated at other sites owned or acquired by the permittee;

(b) Federal facilities which received a permit from the Department, or apply for a permit or a modification to a permit for the treatment, storage, or disposal of hazardous waste generated only on-site or at other sites under the command or supervisory control of the federal facility at which the permitted hazardous waste management operations occur;

(c) Hazardous waste facilities that do not receive waste that is required to be manifested; or

(d) Hazardous waste facilities that meet all siting requirements of Section 403.7211, F.S.

(2) This section shall apply to all pending permit applications for which the Department has not issued a Final Order.

(3) Any applicant who submits an application under Section 403.722 F.S., for a permit to modify a hazardous waste treatment, storage, or disposal facility which does not comply with the location standards in Section 403.7211, F.S. must include a demonstration that the modification is not “substantial” as defined in subsection 62-730.182(4), F.A.C.

(4) A substantial modification under this subsection means any change in operations, structures, or permit conditions, at a permitted TSD, or any changes to the transfer facility notification submitted to the Department in accordance with subsection 62-730.171(2), F.A.C., which is reasonably expected to lead to a substantial increase in the potential impact, or risk of impact, from a release at that facility, as follows:

(a) A substantial increase in the potential impact from a release means a potential increase in the distance from a facility at which life-threatening concentrations of a hazardous substance may occur from an instantaneous release based on the proposed modification versus the threat from existing operations, as determined in accordance with subsection 62-730.182(5), F.A.C. For the purposes of this section, a concentration of hazardous waste or hazardous substances shall be deemed to be life-threatening when the concentration of such hazardous waste or substances could cause susceptible or sensitive individuals, excluding hypersensitive or hyper susceptible individuals, to experience irreversible or serious, long-lasting effects or impaired ability to escape.

(b) Except as provided in subsection 62-730.182(7), F.A.C., a substantial increase in the risk of impact from a release means addition of waste codes; increase in the number or area of treatment, storage or disposal units; or increase in the volume of hazardous waste managed at the hazardous waste facility (which includes a transfer facility).

(5)(a) In the demonstration required by subsection 62-730.182(3), F.A.C., the owner or operator shall analyze and report:

1. One worst-case release scenario that is estimated to create the greatest distance in any direction to an inhalation toxic endpoint determined in accordance with the hierarchy referenced in sub-subparagraph 62-730.182(5)(g)1.a., F.A.C.; and

2. One worst-case release scenario that is estimated to create the greatest distance in any direction to a flammable endpoint defined in sub-subparagraph 62-730.182(5)(g)1.b., F.A.C., resulting from the release of regulated flammable substances under worst-case conditions defined in paragraph 62-730.182(5)(g), F.A.C.

(b) The worst-case release quantity shall be the greater of the following:

1. For substances in a tank (for example, a reactor, vat, kettle, boiler, or cylinder) or other container (for example, a drum or barrel), the greatest amount potentially held in a single tank or container, taking into account administrative controls that limit the maximum quantity; or

2. For substances in pipes, the greatest amount potentially in a pipe, taking into account administrative controls that limit the maximum quantity.

(c)1. For toxic substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is released as a gas over 10 minutes. The release rate (in minutes) shall be assumed to be the total quantity divided by 10 unless passive mitigation systems are in place.

2. For gases handled as refrigerated liquids at ambient pressure:

a. If the released substance is not contained by passive mitigation systems or if the contained pool would have a depth of one centimeter, the owner or operator shall assume that the substance is released as a gas in 10 minutes;

b. If the released substance is contained by passive mitigation systems in a pool with a depth greater than one centimeter, the owner or operator may assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is spilled instantaneously to form a liquid pool. The volatilization rate (release rate) shall be calculated at the boiling point of the substance and at the conditions specified in paragraph 62-730.182(5)(d), F.A.C.

(d)1. For toxic substances that are normally liquids at ambient temperature, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is spilled instantaneously to form a liquid pool.

a. The surface area of the pool shall be determined by assuming that the liquid spreads to one centimeter deep unless passive mitigation systems are in place that serve to contain the spill and limit the surface area. Where passive mitigation is in place, the surface area of the contained liquid shall be used to calculate the volatilization rate.

b. The owner or operator may take into account the actual surface characteristics when analyzing the volatilization rate.

2. The volatilization rate shall account for the highest daily maximum temperature occurring in the past three years and the temperature of the substance in the vessel.

3. The rate of release to air shall be determined from the volatilization rate of the liquid pool. The owner or operator may use any publicly available technique or methodology that accounts for the modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models upon request.

(e) For flammable gases, the owner or operator shall assume that the quantity of the substance, as determined under paragraph 62-730.182(5)(b), F.A.C., and the provisions in subparagraphs 62-730.182(5)(e)1. and 2., F.A.C., vaporizes resulting in a vapor cloud explosion. A yield factor of 10 percent of the available energy released in the explosion shall be used to determine the distance to the explosion endpoint if the model used is based on trinitrotoluene (TNT) equivalent methods.

1. For flammable substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is released as a gas over 10 minutes. The total quantity shall be assumed to be involved in the vapor cloud explosion.

2. For flammable gases handled as refrigerated liquids at ambient pressure:

a. If the released substance is not contained by passive mitigation systems or if the contained pool would have a depth of one centimeter or less, the owner or operator shall assume that the total quantity of the substance is released as a gas in 10 minutes, and the total quantity will be involved in the vapor cloud explosion.

b. If the released substance is contained by passive mitigation systems in a pool with a depth greater than one centimeter, the owner or operator may assume that the quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is spilled instantaneously to form a liquid pool. The volatilization rate (release rate) shall be calculated at the boiling point of the substance and at the conditions specified in paragraph 62-730.182(5)(d), F.A.C. The owner or operator shall assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.

(f) For flammable liquids, the owner or operator shall assume that the quantity of the substance, as determined under paragraph 62-730.182(5)(b), F.A.C., and the provisions in subparagraphs 62-730.182(5)(b)1. and 2., F.A.C., vaporizes resulting in a vapor cloud explosion. A yield factor of 10 percent of the available energy released in the explosion shall be used to determine the distance to the explosion endpoint if the model used is based on TNT equivalent methods.

1. For regulated flammable substances that are normally liquids at ambient temperature, the owner or operator shall assume that the entire quantity in the vessel or pipe, as determined under paragraph 62-730.182(5)(b), F.A.C., is spilled instantaneously to form a liquid pool. For liquids at temperatures below their atmospheric boiling point, the volatilization rate shall be calculated at the conditions specified in paragraph 62-730.182(5)(d), F.A.C.

2. The owner or operator shall assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.

(g) The owner or operator may use any commercially or publicly available air dispersion modeling techniques, provided the techniques account for the modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models upon request. The chosen model shall use the following parameters:

1. The following endpoints shall be used:

a. The inhalation toxic endpoints shall be determined in accordance with the hierarchy provided in the "Technical Report for the Substantial Modification Rule for 62-730, F.A.C." dated August 1, 2008, which is hereby adopted and incorporated by reference.

b. The endpoints for flammables vary according to the scenarios studied:

(I) For explosion, an overpressure of one pound per square inch.

(II) For radiant heat/exposure time, a radiant heat of five kilowatts per squared meter for 40 seconds.

(III) For lower flammability limit, concentration of flammable constituent in air that exceeds 25 percent of their lower flammability limit.

2. The owner or operator shall use a wind speed of 1.5 meters per second and F atmospheric stability class (Pasquill-Gifford system).

3. The owner or operator shall use the highest daily maximum temperature in the previous three years and average humidity for the site, based on temperature/humidity data gathered at the stationary source or at a local meteorological station.

4. The worst-case release of a toxic substance shall be analyzed assuming a ground level (0 feet) release.

5. The owner or operator shall use either urban or rural topography, as appropriate. Urban means that there are many obstacles in the immediate area; obstacles include buildings or trees. Rural means there are no buildings in the immediate area and the terrain is generally flat and unobstructed.

6. The owner or operator shall ensure that tables or models used for dispersion analysis of toxic substances appropriately account for gas density.

7. For worst case, liquids other than gases liquefied by refrigeration only shall be considered to be released at the highest daily maximum temperature, based on data for the previous three years appropriate for the stationary source, or at process temperature, whichever is higher.

(h) Consideration of passive mitigation. Passive mitigation systems may be considered for the analysis of worst case provided that the mitigation system is capable of withstanding the release event triggering the scenario and would still function as intended.

(i) Factors in selecting a worst-case scenario. Notwithstanding the provisions of paragraph 62-730.182(5)(b), F.A.C., of this section, the owner or operator shall select as the worst case for flammable substances or the worst case for toxic substances, a scenario based on the following factors if such a scenario would result in a greater distance to an endpoint defined in subparagraph 62-730.182(5)(g)1., F.A.C., beyond the stationary source boundary than the scenario provided under paragraph 62-730.182(5)(b), F.A.C., of this section:

1. Smaller quantities handled at higher process temperature or pressure; and
2. Proximity to the boundary of the stationary source.

(6) In the demonstration required by subsection 62-730.182(3), F.A.C., the owner or operator shall analyze and report:

(a) The physical and chemical characteristics of hazardous waste to be stored; including ignitability, corrosivity, reactivity, toxicity, and volatility; together with any proposed restrictions on the types of hazardous waste to be stored.

(b) The maximum volume of each type of hazardous waste to be stored, together with any proposed restrictions on the types and/or volumes of hazardous waste to be stored.

(c) Operating methods, techniques, and practices to be undertaken by the facility for hazardous waste for which life-threatening concentrations would occur off-site from a spill, fire, or other accidental release.

(d) Passive design improvements or operational restrictions, other than those set forth in this rule, proposed by the owner or operator.

(e) No protection from a fire department may be assumed. Passive fire protection measures only, not active fire protective measures, may be assumed to be effective in the demonstration.

(7) The modifications listed in paragraph 62-730.182(4)(b), F.A.C., shall not be considered to substantially increase the risk of impact if, evaluated on a unit by unit basis, the applicable criteria within the following conditions are met:

(a) Any additional units or expanded areas are:

1. Separated from adjoining hazardous waste storage, treatment, or disposal units or areas by 4-hour fire rated walls, or
2. Separated from the existing hazardous waste storage, treatment, disposal units, or areas by a sufficient distance (to be specified in the site-specific permit or other authorization based upon the flammability and explosive potential of the permitted waste types at their maximum permitted mass or volume; the types of containers and building materials; the available data on wind speed and relative humidity; any passive fire suppression systems; and the presence of natural or manmade features between the existing and proposed units) such that a spill, fire, or other accidental release will not result in the spread of a fire, spill, or other accidental release to the new unit or units.

(b) Interior emergency egress lighting is provided for all hazardous waste treatment, storage, disposal, and transfer facility structures. [Note, the National Fire Protection Association (NFPA) provides design standards for egress lighting in the National Fire Codes].

(c) Exterior emergency lighting is provided for the exterior of all hazardous waste treatment, storage, disposal, and transfer facility hazardous waste management areas, including loading/unloading and transporter vehicle parking areas. [Note, the NFPA provides design standards for exterior emergency lighting in the National Fire Codes].

(d) Secondary containment is provided for all loading and unloading areas, as follows:

1. The secondary containment system has sufficient capacity to contain the total volume of the largest container or 10% of the total volume of the maximum number of containers managed in the loading and unloading area, whichever is greater.
2. If the secondary containment system is not sheltered from precipitation, the secondary containment system has the additional capacity necessary to contain precipitation at the loading and unloading area from a 25-year, 24-hour storm event.
3. For attended transfer to a tank, the tank is installed with a spill containment system at each tank fill connection. This spill containment system is designed to prevent a discharge of regulated substances when the transfer hose or pipe is detached from the tank fill pipe and meets the requirements of paragraph 62-761.500(1)(e), F.A.C.

(e) All transportation vehicles in which hazardous waste is stored incident to transportation at a hazardous waste management facility are parked on a concrete or asphalt surface.

(f) All hazardous waste management areas, including loading and unloading areas at treatment, storage, or disposal units and transfer facilities, comply with the security requirements of 40 CFR Part 264, Subpart C, as adopted by reference in Rule 62-730.180, F.A.C.

(g) All hazardous waste management areas, including loading and unloading areas at treatment, storage, or disposal units and transfer facilities, comply with the communications or alarm system requirements of 40 CFR Part 264, Subpart C, including fire and smoke alarm systems, as adopted by reference in Rule 62-730.180, F.A.C. The system includes a 24-hour alarm station attended by properly trained personnel and an alarm system which automatically transmits a signal to a municipal fire department, a fire brigade, or an emergency response agency without delay.

(h) Concrete floors for the hazardous waste management areas are constructed with an impervious, chemically resistant, surface or coating. Design and construction of the concrete floors must be signed and sealed by a professional engineer in accordance with the requirements of Chapter 471, F.S.

(i) Hazardous waste treatment, storage, disposal and transfer facilities use, at a minimum, incombustible materials for the following structural elements: party and firewalls, interior bearing walls, interior nonbearing partitions, columns, beams, girders, trusses, arches, floors, floor/ceiling assemblies, roofs, roof/ceiling assemblies, exterior bearing walls, and exterior nonbearing walls.

(j) All bays that contain water reactive (Department of Transportation (DOT) Class 4.3), flammable or combustible hazardous waste (DOT Class 2.1, Class 3, Class 4.1 and Class 4.2), oxidizers (DOT Class 5.1), or organic peroxides (DOT Class 5.2), as defined in 49 CFR Part 173, are completely surrounded with four-hour firewalls to the ceiling and provided with automatic fire doors for the entrance and exit. A two-hour rated ceiling is provided for all water reactive storage or treatment bays. Contiguous bays which contain compatible hazardous waste may be considered as a single bay in meeting this standard. This standard shall not apply if the flammable or combustible hazardous waste is separated from other hazardous waste management areas in accordance with the distances specified in subparagraph 62-730.182(7)(a)2., F.A.C.

(k) The facility is provided with an automatic fire sprinkler or suppression system. Fire suppression agents are compatible with the predominant type or types of hazardous waste managed. [Note, the National Fire Protection Association (NFPA) provides design standards for fire sprinkler and suppression systems in the National Fire Codes].

(l) Lightning protection is provided for all interior storage or treatment structures for hazardous waste treatment, storage and transfer facilities [Note, the National Fire Protection Association (NFPA) provides standards for the installation of lightning protection systems in the National Fire Codes].

(m) The owner or operator maintains a real-time record of information online or at an off-site location that identifies the generators of the waste and the quantity, type, location, and hazards of the waste at the facility, and makes this information accessible to the Department, to the county in which the facility is located, to any municipality with planning jurisdiction over the site of the facility, and to emergency response agencies that have a role under the contingency plan for the facility.

(n) In addition to the security requirements of 40 CFR 264.14, the owner or operator provides a security and surveillance system at the facility 24 hours a day, seven days a week, either by employing trained facility personnel or by providing an electronic security and surveillance system which may include television, motion detectors, heat-sensing equipment, combustible gas monitors, or any combination of these, capable of promptly detecting unauthorized access to the facility; monitoring conditions; identifying operator errors; and detecting any discharge that could directly or indirectly cause a fire, explosion, or release of hazardous waste or hazardous waste constituents into the environment or threaten human health.

(o) The owner or operator installs an on-site wind monitor located so that the real-time wind direction can be determined from a remote location in the event of a release of hazardous waste or hazardous waste constituents into the environment.

(8) The owner or operator shall not implement a proposed modification until the Department approves the demonstration required by this section.

*Rulemaking Authority 403.0877, 403.7211 FS. Law Implemented 403.0877, 403.7211 FS. History—New 10-28-08.*

### **62-730.183 Land Disposal Restrictions.**

The Department adopts by reference 40 CFR Part 268 revised as of July 1, 2010 <http://www.flrules.org/Gateway/reference.asp?No=Ref-00606>, and all appendices, with the exception of subsections (1) and (2) of this section.

(1) 40 CFR 268.5, 268.6, 268.42(b) and 268.44(a) through (g). The authority for implementing these excluded sections remains with EPA. However, internal references to 40 CFR 268.44 in 268.30(d)(3), 268.33(b)(3), 268.34(e)(3), 268.35(b)(3), 268.38(d)(3),

268.39(f)(3), 268.49(b) and 268.50(e) shall mean 40 CFR 268.44(a) through (m).

(2) The inclusion of lab packs containing D009 wastes in 40 CFR 268.7(a)(9)(iii).

*Rulemaking Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.704, 403.721 FS. History—New 1-25-89, Formerly 17-30.183, Amended 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.183, Amended 1-5-95, 9-7-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 10-12-11.*

### **62-730.185 Standards for Universal Waste Management.**

(1) The Department adopts by reference 40 CFR Part 273 revised as of July 1, 2008.

(2) Any person seeking to add a hazardous waste or any category of hazardous waste to this section may petition under Section 120.54(7), F.S.; and 40 CFR 260.23 [as adopted by reference in subsection 62-730.021, F.A.C.], 273.80 and 273.81 [both as adopted by reference in subsection 62-730.185(1), F.A.C.].

*Rulemaking Authority 403.704, 403.721, 403.8055 FS. Law Implemented 403.061, 403.704, 403.721 FS. History—New 9-7-95, Amended 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09.*

### **62-730.186 Universal Pharmaceutical Waste.**

(1) The requirements of this section apply to:

(a) “Hazardous waste pharmaceuticals” (as defined in paragraph 62-730.186(4)(e), F.A.C.) while they are managed in Florida; and

(b) Large and small quantity handlers of universal pharmaceutical waste as defined in paragraphs 62-730.186(4)(f) and (l), F.A.C., including persons who handle universal pharmaceutical waste on an infrequent or episodic basis, as well as those who handle such waste routinely or periodically.

(2) The requirements of this section do not apply to:

(a) Pharmaceuticals that are not hazardous waste;

(b) Pharmaceuticals that have not been discarded and that are:

1. Returned with a reasonable expectation of credit through the pharmaceutical reverse distribution system to a manufacturer, wholesaler or reverse distributor, in accordance with an agreement or policy of the manufacturer, due to an oversupply, expiration of the recommended shelf life, a manufacturer recall, a shipping error or damage to the exterior packaging;

2. Donated to a charitable organization as described in the Internal Revenue Code and permitted pursuant to the requirements of Chapter 64F-12, F.A.C.; or

3. Sold to persons who resell and do not discard the pharmaceuticals;

(c) Pharmaceuticals that are biomedical waste as defined in Section 403.703, Florida Statutes (F.S.);

(d) Spill residues, cleanup materials, and media that are contaminated with pharmaceuticals as the result of a spill or discharge; and

(e) Raw materials or ingredients used in the manufacture of pharmaceuticals.

(3) Hazardous waste pharmaceuticals are considered to be universal waste in Florida when managed in accordance with this section. Hazardous waste pharmaceuticals not managed as universal waste in accordance with this section shall be managed in accordance with Chapter 62-730, F.A.C., and shall be disposed of at a permitted hazardous waste treatment, storage or disposal facility.

(4) Definitions. As used in this section:

(a) “Consumer packaging” means the packaging that surrounds or encloses a container, in a form intended or suitable for a healthcare or retail venue, or rejected during the manufacturing process as long as it is enclosed in its bottle, jar, tube, ampule, or package for final distribution to a healthcare or retail venue.

(b) “Container” means the receptacle, such as a bottle, jar, tube, or ampule, into which a pharmaceutical is placed, packaged for transport and/or transported and intended for distribution or dispensing to an ultimate user, and does not include any element of a pharmaceutical that is intended to be absorbed, inhaled or ingested.

(c) “Distribute” means to deliver a pharmaceutical by means other than by administering or dispensing.

(d) “Distributor” means a person who distributes.

(e) “Hazardous waste pharmaceutical” means a “non-viable” “pharmaceutical” [as defined in paragraphs 62-730.186(4)(i) and 62-730.186(4)(h), F.A.C., respectively] that exhibits a characteristic as described in 40 CFR Part 261, Subpart C or is listed

hazardous waste pursuant to 40 CFR Part 261, Subpart D. If the waste formulation includes a commercial chemical product listed in Subpart D as the sole active ingredient, then the entire formulation is considered a hazardous waste pharmaceutical, unless excluded by 40 CFR 261.3(g). A pharmaceutical becomes a waste when it is no longer “viable” (as defined in paragraph 62-730.186(4)(n), F.A.C.); when a decision is made to discard the pharmaceutical; or when the pharmaceutical is abandoned as described in 40 CFR 261.2(b). A pharmaceutical does not meet the definition of a “solid waste” under 40 CFR 261.2 and is considered product as long as it is viable, a decision to discard it has not been made, and it is not abandoned as described in 40 CFR 261.2(b). Pharmaceuticals that are produced by a pharmaceutical manufacturer without reasonable expectation of sale, returned or delivered without a reasonable expectation of credit to a manufacturer, wholesaler, reverse distributor or any type of waste broker, are non-viable and are discarded. Once a decision has been made to discard a viable pharmaceutical, it becomes non-viable. Non-viable pharmaceuticals that are hazardous waste may be handled as universal waste under this rule. 40 CFR Part 261 and all sections thereof as cited in this paragraph have been adopted by reference as state regulations in subsection 62-730.030(1), F.A.C.

(f) “Large quantity handler of universal waste” means a “universal waste handler” [as defined in 40 CFR 273.9 (as adopted in subsection 62-730.185(1), F.A.C.)] that, at any time:

1. Accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, lamps, or pharmaceuticals, calculated collectively), or

2. Accumulates universal pharmaceutical waste consisting of more than one kilogram total of pharmaceuticals listed in 40 CFR 261.33(e) [as adopted in subsection 62-730.030(1), F.A.C.] as acute hazardous waste (“p-listed wastes”). The designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the universal waste, identified in subparagraphs 1. and 2. of paragraph 62-730.186(4)(f), F.A.C., is accumulated.

(g) “Manufacturer” means a person who prepares, derives, manufactures, or produces a pharmaceutical.

(h) “Pharmaceutical” means a manufactured chemical product that is intended to be inhaled, ingested, injected, or topically applied for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease or injury in humans or other animals.

(i) “Non-viable” means a pharmaceutical that cannot be sold, returned to the manufacturer, wholesaler or reverse distributor with a reasonable expectation of credit, or donated to a charitable organization. Pharmaceuticals that are obviously “waste-like”, such as partial intravenous formulations; partial vials used in the preparation of intravenous (IV) formulations; outdated samples; other outdated items repackaged at the pharmacy; partial vials or vials used on the unit and not emptied (such as insulin and epinephrine dispensing devices); partial ointments, creams and lotions; partial inhalants; partial containers that are not empty as defined in 40 CFR 261.7 [as adopted in subsection 62-730.030(1), F.A.C.]; patient’s personal medications that have been left at the hospital; filled finished products that are rejected during the manufacturing process, so long as they are in their consumer package (such as bottle, jar, tube, or ampule), do not support a reasonable expectation of credit and therefore are non-viable pharmaceuticals.

(j) “Pharmaceutical reverse distribution system” means the established practice of shipping expired or other unsaleable prescription drugs from pharmacies, medical practitioners, over-the-counter pharmaceutical retailers, and pharmaceutical wholesalers to pharmaceutical reverse distributors and then to manufacturers with the intent of receiving credit. These items may be shipped directly to manufacturers depending on manufacturer return policies.

(k) “Reverse distributor” means a person engaged in the reverse distribution of prescription drugs who:

1. Operates a warehouse licensed by the Department of Health, Bureau of Statewide Pharmaceutical Services under Chapter 499, F.S., as a reverse distributor; and

2. Has management systems in place to ensure compliance with applicable requirements of 40 CFR Parts 260 through 273 [as adopted in Rules 62-730.021 and 62-730.183, and subsections 62-730.020(1), 62-730.030(1), 62-730.160(1), 62-730.170(1), 62-730.180(1) and (2), 62-730.181(1), 62-730.185(1), and 62-730.220(1), F.A.C.] and Chapter 62-730, F.A.C.

NOTE: The Federal Drug Enforcement Administration has registration requirements for persons engaged in the reverse distribution of prescription drugs who handle controlled substances in Schedules II through V promulgated under United States Code, Title 21, Section 812.

(l) “Small quantity handler of universal waste” means a “universal waste handler” [as defined in 40 CFR 273.9 (as adopted in subsection 62-730.185(1), F.A.C.)] that does not:

1. Accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, lamps or pharmaceuticals, calculated collectively); or

2. Accumulate universal pharmaceutical waste consisting of more than one kilogram total of pharmaceuticals listed in 40 CFR 261.33(e) [as adopted in subsection 62-730.030(1), F.A.C.] as acute hazardous waste (“p-listed wastes”).

(m) “Universal waste” means any of the following hazardous wastes that are subject to the universal waste requirements of 40 CFR Part 273 [as adopted in subsection 62-730.185(1), F.A.C.], Chapter 62-730, F.A.C., or Chapter 62-737, F.A.C.: batteries as described in 40 CFR 273.2; pesticides as described in 40 CFR 273.3; thermostats as described in 40 CFR 273.4; lamps as described in 40 CFR 273.5; mercury-containing devices as described in Chapter 62-737, F.A.C.; and pharmaceuticals as defined in paragraph 62-730.186(4)(e), F.A.C.

(n) “Viable” means a pharmaceutical can be sold, returned to the manufacturer, wholesaler or reverse distributor with a reasonable expectation of credit, or donated to a charitable organization meeting the definition in the Internal Revenue Code and permitted in accordance with Chapter 64F-12, F.A.C.

(o) “Wholesaler” means a person who sells or distributes for resale any pharmaceutical as defined in paragraph 62-730.186(4)(e), F.A.C., to any entity other than the ultimate user.

(5) A large or small quantity handler of universal pharmaceutical waste (“handler”) is prohibited from:

(a) Disposing of universal pharmaceutical waste; and

(b) Diluting or treating universal pharmaceutical waste, except when responding to releases as described in subsection 62-730.186(10), F.A.C., or when managing waste as described in subsection 62-730.186(7), F.A.C.

(6) A handler or a transporter of universal pharmaceutical waste shall notify the Department in writing and receive an EPA Identification Number before accumulating universal pharmaceutical waste, or offering such waste for transport, or transporting such waste, and shall use Form 62-730.900(1)(b), “8700-12FL, Florida Notification of Regulated Waste Activity,” effective date January 4, 2009 [as adopted by reference in paragraph 62-730.150(2)(a), F.A.C.] to do so. A handler or transporter of hazardous waste that has already notified the Department of its hazardous waste management activities and obtained an EPA Identification Number is not required to renotify under this section.

(7) A handler shall implement proper universal pharmaceutical waste management activities that include the following:

(a) A handler shall contain any universal pharmaceutical waste that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. A handler shall manage universal pharmaceutical waste in a way that prevents releases of any universal pharmaceutical waste or component of a universal pharmaceutical waste to the environment. The universal pharmaceutical waste shall be contained in one or more of the following:

1. A container that remains closed (except when adding or removing waste), is structurally sound, and compatible with the pharmaceutical, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. A container that does not meet the requirements of subparagraph 62-730.186(7)(a)1., F.A.C., provided the unacceptable container is overpacked in a container that does meet the requirements; and

3. A tank that meets the requirements of 40 CFR Part 265 Subpart J [as adopted in subsection 62-730.180(2), F.A.C.], except for 40 CFR 265.197(c), 265.200 and 265.201.

(b) A handler shall clearly label those containers and tanks accumulating waste pharmaceuticals with the phrase “universal pharmaceutical waste” or “universal waste pharmaceuticals,” and with specific hazardous waste codes applicable to the universal pharmaceutical waste that is or may be placed in the container or tank.

(c) A handler may conduct the following activities as long as the innermost container of each individual pharmaceutical remains intact and closed, or if the innermost container is placed into another individual sealed container:

1. Sorting or mixing individual pharmaceuticals in one outer container, as long as the pharmaceuticals are compatible;

2. Disassembling packages containing several pharmaceuticals into individual pharmaceuticals; and

3. Removing pharmaceuticals from consumer packaging.

(d) A handler of universal pharmaceutical waste may generate solid waste as a result of the activities in paragraph 62-730.186(7)(c), F.A.C. A handler of universal pharmaceutical waste that generates solid waste shall determine whether the solid waste is hazardous waste identified in 40 CFR Part 261 Subpart C or D [as adopted in subsection 62-730.030(1), F.A.C.] If the solid waste is a hazardous waste, it shall be managed in compliance with all applicable requirements of Chapter 62-730, F.A.C. The handler is considered the generator of the hazardous waste and is subject to 40 CFR Part 262 [as adopted in subsection 62-730.160(1), F.A.C.] If the solid waste is not hazardous waste, the handler may manage the waste in any way that is in compliance with applicable federal, state and local solid waste regulations.

(e)1. A reverse distributor or wholesaler who meets the definition of “universal waste handler” in 40 CFR 273.9 [as adopted in subsection 62-730.185(1), F.A.C.] shall meet the requirements for “handlers” in subsections 62-730.186(6) through (12), F.A.C., of this section.

2. A reverse distributor or wholesaler that makes determinations as to whether pharmaceuticals are viable shall:

a. Begin the process of distinguishing viable pharmaceuticals from universal pharmaceutical waste or hazardous waste within 14 days of receipt of a complete shipment of returns from a handler, and in no event more than 21 days from the receipt of the first installment of a partial shipment;

b. Complete the universal pharmaceutical waste or hazardous waste identification process within 21 days of receipt of the complete shipment, and in no event more than 30 days from receipt of the first installment of a partial shipment; and

c. Keep a record of each shipment of returns by any method that clearly demonstrates the date on which the shipment was received and the date on which the reverse distributor or wholesaler determined the universal pharmaceutical waste or hazardous waste status of all items in the shipment.

(8) The following are accumulation time limits and verification practices for handlers of universal pharmaceutical waste:

(a) A small quantity handler of universal waste may accumulate universal pharmaceutical waste for no longer than one year from the date the universal pharmaceutical waste was generated, unless the requirements of paragraph 62-730.186(8)(c), F.A.C., are met.

(b) A large quantity handler of universal waste may accumulate universal pharmaceutical waste for no longer than 6 months from the date the universal pharmaceutical wastes are generated, unless the requirements of paragraph 62-730.186(8)(c), F.A.C., are met.

(c) A handler may accumulate universal pharmaceutical waste for a longer period of time than specified in paragraphs 62-730.186(8)(a) and (b), F.A.C., if such activity is solely for the purpose of accumulation of such quantities of universal pharmaceutical waste as are necessary to facilitate proper recovery, treatment or disposal. However, the handler bears the burden of proving that the extended accumulation time is solely for these purposes.

(d) A handler shall be able to demonstrate the accumulation time for the universal pharmaceutical waste. The handler may make this demonstration by:

1. Placing the universal pharmaceutical waste in a container and marking or labeling the container with the earliest date that any universal pharmaceutical waste in the container became a waste;

2. Marking or labeling each individual item of universal pharmaceutical waste (e.g., each individual pharmaceutical container or package) with the date it became a waste;

3. Maintaining an inventory system on-site that identifies the date each universal pharmaceutical waste became a waste;

4. Maintaining an inventory system on-site that identifies the earliest date that any universal pharmaceutical waste in a group of universal pharmaceutical wastes, or a group of containers of universal pharmaceutical wastes, became waste; or

5. Using any other method which clearly demonstrates the length of time the universal pharmaceutical wastes have been accumulating from the date they became a waste.

(9) A handler shall ensure that all employees handling or managing universal pharmaceutical waste successfully complete a program of classroom instruction or on-the-job training.

(a) The training shall ensure that all employees are thoroughly familiar with proper waste management procedures relevant to their responsibilities during normal facility operations and emergencies. The training shall include response to releases as required by subsection 62-730.186(10), F.A.C.

(b) Employees working at a handler’s facility on April 22, 2007 shall successfully complete the training program required in paragraph 62-730.186(9)(a), F.A.C., within three months after the effective date. Employees hired or assigned after April 22, 2007 shall successfully complete the training program within three months after the date of their employment at or assignment to the handler’s facility. These employees shall not manage universal pharmaceutical waste unsupervised until they have completed the training requirements.

(c) Employees shall take part in an annual review of the initial training required in paragraph 62-730.186(9)(a), F.A.C., and the handler shall ensure that the annual review is available to the employees.

(d) A handler shall document the training given to each employee. The documents shall include the employee’s name, signature, date of hire or assignment, date of training, and type of training. The training documents shall be kept at the handler’s place of business for at least three years.

(10) A handler shall immediately contain all releases of universal pharmaceutical waste (including spills that occur indoors). A handler shall determine whether any material resulting from a release is hazardous waste. A handler shall manage any such hazardous waste in compliance with the requirements of 40 CFR Parts 260 through 272 [as adopted in Rules 62-730.021 and 62-730.183, and subsections 62-730.020(1), 62-730.030(1), 62-730.160(1), 62-730.170(1), 62-730.180(1) and (2), 62-730.181(1) and 62-730.220(1), F.A.C.] The handler is considered the generator of the material resulting from the release and shall manage the material in compliance with 40 CFR Part 262 [as adopted in subsection 62-730.160(1), F.A.C.] Material resulting from the release of universal pharmaceutical waste may not be managed as universal pharmaceutical waste.

(11) Off-site shipments of universal pharmaceutical waste shall meet the following requirements:

(a) A handler is prohibited from sending or taking universal pharmaceutical waste to a place other than to a handler or a reverse distributor who has notified the department pursuant to subsection 62-730.186(6), F.A.C.; a destination facility as defined in 40 CFR 273.9 [as adopted in subsection 62-730.185(1), F.A.C.]; or a foreign destination in accordance with the requirements of paragraph 62-730.186(11)(j), F.A.C.

(b) A reverse distributor is prohibited from taking or sending universal pharmaceutical waste to a place other than a destination facility that is permitted pursuant to 40 CFR Parts 264 [as adopted in subsection 62-730.180(1), F.A.C.] and 270 [as adopted in subsection 62-730.220(1), F.A.C.] for treatment, storage or disposal of hazardous waste, or a foreign destination in accordance with the requirements of paragraph 62-730.186(11)(j), F.A.C.

(c) If a handler self-transportes universal pharmaceutical waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of 40 CFR Part 273 Subpart D [as adopted in subsection 62-730.185(1), F.A.C.] while transporting the universal pharmaceutical waste.

(d) A person who transports, at any one time, more than 5000 kilograms of universal pharmaceutical waste or more than one kilogram of p-listed universal pharmaceutical waste shall comply with the financial responsibility requirements of subsection 62-730.170(2), F.A.C.

(e) A handler that intends to transport a universal pharmaceutical waste that meets the definition of hazardous materials in 49 CFR Parts 171 through 180 is advised of its duty to comply with the applicable Department of Transportation regulations in 49 CFR Parts 172 through 180. These regulations address packaging, labeling, marking and placarding the shipment, and preparing proper shipping papers. Handlers are further advised to consult 49 CFR 172.101 for a list of hazardous materials and a table summarizing shipping requirements.

(f) A handler that transports a universal pharmaceutical waste to a reverse distributor or another handler must provide the reverse distributor or handler with written information sufficient to allow the reverse distributor or other handler to make knowledgeable decisions about the safe handling and proper disposal of the universal pharmaceutical waste.

(g) Prior to sending a shipment of universal pharmaceutical waste to a destination facility, the originating handler shall ensure that the destination facility agrees in writing to receive the shipment. One agreement to accept universal waste from a handler can cover more than one shipment.

(h) If a handler sends a shipment of universal pharmaceutical waste to a destination facility and the shipment is rejected by the destination facility, the originating handler shall either:

1. Receive the waste back when notified that the shipment has been rejected; or
2. Agree with the destination facility on an alternate destination facility to which the shipment will be sent.

(i) If a destination facility receives a shipment containing hazardous waste that is labeled universal pharmaceutical waste but is not in fact universal pharmaceutical waste, the destination facility shall immediately notify the Department of the mislabeled shipment and provide the name, address, and telephone number of the originating handler. The destination facility shall handle the hazardous waste in accordance with the requirements of Chapter 62-730, F.A.C.

(j) If a destination facility receives a shipment of non-hazardous, non-universal waste pharmaceuticals, the destination facility may manage the waste pharmaceuticals in any way that is in compliance with applicable federal, state and local solid waste regulations.

(k)1. A handler who sends universal pharmaceutical waste to a foreign destination which is one of the following designated member countries of the Organization for Economic Cooperation and Development (OECD): Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, and United Kingdom, is subject to the requirements of 40 CFR Part 262 Subpart H [as adopted in subsection 62-730.160(1), F.A.C.]

2. A handler who sends universal pharmaceutical waste to a foreign destination other than those listed in subparagraph 62-730.186(11)(j)1., F.A.C., must:

a. Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a)(1) through (4), (6), and (b), and 262.57 [as adopted in subsection 62-730.160(1), F.A.C.];

b. Export such universal pharmaceutical waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in 40 CFR 262.51 [as adopted in subsection 62-730.160(1), F.A.C.]; and

c. Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter who transports the shipment for export.

(l) This section applies to hazardous waste pharmaceuticals only while they are managed in Florida. Handlers are advised to meet the regulatory requirements of the receiving state when hazardous waste pharmaceuticals are shipped out of state.

(12) A handler shall keep a record of each shipment of universal pharmaceutical waste sent to another handler, a reverse distributor, destination facility, or foreign destination. The record shall consist of a written receipt, manifest, bill of lading or other written documentation. A handler shall retain the records at its place of business for at least three years from the date of shipment. The record for each shipment of universal pharmaceutical waste shall include the following information:

(a) The name and address of the handler, reverse distributor, destination facility or foreign destination to which the universal pharmaceutical wastes were sent;

(b) The quantity of universal pharmaceutical waste sent; and

(c) The date the shipment of universal pharmaceutical waste left the handler's facility.

(13) This section constitutes state authorization for reverse distributors and wholesalers to manage hazardous pharmaceutical waste from conditionally exempt hazardous waste generators (CESQGs) and authorization for CESQGs to ensure delivery of their hazardous waste pharmaceuticals to a reverse distributor or wholesaler, pursuant to 40 CFR 261.5(f)(3)(iii) and 40 CFR 261.5(g)(3)(iii) [as adopted in subsection 62-730.030(1), F.A.C.] Wholesalers are authorized by this section to manage hazardous pharmaceutical waste only from the CESQGs to whom they distributed the pharmaceutical(s) which became waste.

*Rulemaking Authority 403.061, 403.151, 403.704, 403.72, 403.721 FS. Law Implemented 120.52, 120.54, 403.061, 403.151, 403.704, 403.72, 403.721 FS. History—New 4-22-07, Amended 1-4-09.*

### **62-730.200 Introduction, Scope and Procedures for Decision Making.**

(1) This Part provides the requirements and procedures for the issuance, approval, denial, renewal, modification, and revocation of any research development and demonstration permit, temporary operation permit, construction permit, postclosure permit, corrective action permit, emergency permit, clean closure plan, remedial action plan, variance, closure equivalency determination, or other authorization required by law from the Department for a hazardous waste facility.

(2) The provisions of Chapter 62-4, F.A.C., shall also apply to the permitting of hazardous waste facilities, but only to the extent Chapter 62-4, F.A.C., is consistent with this Part.

(3) The Department will follow the procedures set forth in these sections of 40 CFR Part 124 revised as of July 1, 2008: 124.3(a); 124.5(a), (c), and (d); except the optional amendment to 124.5(c)(1) in the Federal Register dated September 8, 2005 (70 FR 53419); 124.6(a), (d), and (e) except (d)(4)(ii) through (v); 124.8(a) and (b) except (b)(3) and (b)(8); 124.10(a) except (a)(1)(i) and (a)(1)(iv) through (a)(3); 124.10(b); 124.10(c) except (c)(1)(iv) through (viii); 124.10(d) except (d)(1)(vii) through (ix) and (d)(2)(iv); 124.11; 124.12(a); and 124.17 except (b); 124.31 except for two sentences in 124.31(a) which include the phrase "over which EPA has permit issuance authority" and the optional amendments to 124.31(a), (b) and (c) in the Federal Register dated September 8, 2005 (70 FR 53419); 124.32 except for two sentences in 124.32(a) which include the phrase "over which EPA has permit issuance authority" and the optional amendment to 124.32(a) in the Federal Register dated September 8, 2005 (70 FR 53419); and 124.33 except for 124.33(a), which are hereby adopted by reference. For the optional amendments excepted in this section, the language in effect on September 8, 2005 remains in effect. Sections 124.31, 124.32, 124.33 apply to all applicants seeking construction or operation permits for hazardous waste management units.

(4) Whenever a permit is required pursuant to this chapter and when other rules of the Department require another type of permit, the Department will make every effort to consolidate the review, issuance, and reissuance of Department permits.

(5) Permits may be issued or denied for one or more hazardous waste management unit at a facility without simultaneously issuing or denying a permit to all hazardous waste management units at the facility. The permit status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

*Rulemaking Authority 403.704, 403.721, 403.722, 403.8055 FS. Law Implemented 403.704, 403.721, 403.722 FS. History—New 7-1-82, Formerly 17-30.20, Amended 9-23-87, 6-28-88, Formerly 17-30.200, Amended 9-10-91, 10-14-92, Formerly 17-730.200, Amended 1-5-95, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09.*

**Editorial Note:** Formerly Rule 62-730.184, F.A.C.

### **62-730.210 Definitions.**

- (1) The definitions as described in Rule 62-730.020, F.A.C., shall apply to this part.
- (2) In addition, as used in this part:
  - (a) “Authorization” means any permit, certification, consent, designation, approval, variance, registration, license, agreement, order (including consent order), enforceable document, or other determination required by law from the Department prior to some proposed action or to obtain some relief.
  - (b) “Clean closure determination” means a determination by the Department that all wastes and waste residues; all contaminated system components, structures and equipment; and all soil, sediment, groundwater, and surface water at a contaminated site have been removed or decontaminated to the extent necessary to protect human health and the environment. Applicants for a clean closure determination without controls must demonstrate that they meet cleanup target levels for risk management option level I pursuant to subsection 62-780.680(1), F.A.C. The term “no further action” refers only to sites that receive a clean closure determination without controls. Applicants for a clean closure determination with controls must demonstrate that they meet the cleanup target levels for risk management option level II or III pursuant to subsections 62-780.680(2) and (3), F.A.C. The term “no further action with controls” refers to sites that receive a clean closure determination with controls. “Sites” as used in this paragraph means solid waste management units (SWMUs), regulated hazardous waste management units, and areas of concern (AOCs).
  - (c) “Clean closure plan” means an enforceable document designed to achieve a clean closure determination with or without controls.
  - (d) “Closure” means the cessation of operation of a hazardous waste facility or unit, and the act of securing such a facility or unit pursuant to the requirements of Rule 62-730.180, F.A.C., so that it will pose no significant threat to human health or the environment.
  - (e) “Contaminated site” means any contiguous land, sediment, surface water, or groundwater area that contains contaminants that may be harmful to human health or the environment. The term includes releases of contaminants from SWMUs, regulated hazardous waste management units, and AOCs.
  - (f) “Corrective action permit” means a hazardous waste facility permit that authorizes remedial activities for solid waste management unit(s) as described in 40 CFR 264.101 or that authorizes remedial activities for SWMUs, regulated unit(s) or AOCs pursuant to 40 CFR 264.110(c) or 40 CFR 265.110(c). At operating hazardous waste management facilities, conditions for remedial activities will be incorporated into the operation permit. At facilities that have or once had a permit to operate or close a hazardous waste disposal unit, a corrective action-only permit is not available if the unit is closed with controls, unless the Department has accepted a certification of completion of postclosure for all such hazardous waste disposal units at the facility.
  - (g) “Enforceable document” means a written action by the Department which is subject to the provisions of Section 120.69, F.S.
  - (h) “Notice of deficiency” (NOD) means a certified letter from the Department to an applicant for any permit or other authorization indicating those items which were not completed or were inadequate in the original application or in subsequent submittals and requesting the submission of the required information.
  - (i) The phrase “owner or operator” includes a permittee or a respondent subject to a Department order.
  - (j) “Part I” means the section of the permit application submitted on the DEP form adopted in paragraph 62-730.900(2)(a), F.A.C.
  - (k) “Part II” means all other sections of the permit application submitted to demonstrate compliance with 40 CFR Part 264.
  - (l) “Permit” means a type of legal authorization granted by the Department to engage in or conduct any construction, operation, or remedial activities at a hazardous waste facility for a specified period of time.
  - (m) “Postclosure permit” means a hazardous waste facility permit issued pursuant to the provisions of 40 CFR 270.1(c) and 40 CFR 270.28.
  - (n) “Remedial activities” means all activities required or undertaken to identify contamination and to reduce the concentration of contaminants to meet cleanup target levels. The term includes “closure” as outlined in 40 CFR 264.111 through 264.115 [as adopted in subsection 62-730.180(1), F.A.C.] and 40 CFR 265.111 through 265.115 [as adopted in subsection 62-730.180(2),

F.A.C.] with respect to closing hazardous waste treatment, storage and disposal units; “postclosure care” as outlined in 40 CFR 264.117 through 264.120 [as adopted in subsection 62-730.180(1), F.A.C.] and 40 CFR 265.117 through 265.120 [as adopted in subsection 62-730.180(2), F.A.C.] with respect to closed hazardous waste treatment, storage and disposal units; and “corrective action” as required by 40 CFR Part 264 [as adopted in subsection 62-730.180(1), F.A.C.] for releases from any solid waste management unit at a hazardous waste facility. The term “remedial activities” with respect to a solid or hazardous waste management unit corresponds to “site rehabilitation” as used in Chapter 62-780, F.A.C., and defined at subsection 62-780.200(44), F.A.C.

(o) “Subpart H remedial action plan” or “Subpart H RAP” means a special form of hazardous waste authorization as promulgated in 40 CFR Part 270 Subpart H [as adopted in subsection 62-730.220(1), F.A.C.] to approve the treatment, storage or disposal of hazardous remediation waste as defined in 40 CFR 260.10 [as adopted by reference in subsection 62-730.020(1), F.A.C.].

(p) “Temporary operation permit” (TOP) means the legal authorization, limited to a maximum of 3 years, granted by the Department to operate a hazardous waste facility in accordance with Section 403.722, F.S., and Rule 62-730.231, F.A.C.

*Rulemaking Authority 376.30701, 403.704, 403.722 FS. Law Implemented 376.30701, 403.704, 403.722 FS. History—New 7-9-82, Amended 1-5-84, Formerly 17-30.21, Amended 9-23-87, Formerly 17-30.210, Amended 9-10-91, Formerly 17-730.210, Amended 1-29-06, 11-29-06.*

### **62-730.220 Applications for Permits and Other Authorizations.**

(1) The Department adopts by reference the following sections of 40 CFR Part 270 revised as of July 1, 2008: 270.1(c) except for the Project XL site-specific regulations in 270.1(c)(2)(ix); 270.2, except for the optional amendments to the definition of “permit” and “Standardized Permit” in the Federal Register dated September 8, 2005 (70 FR 53419); 270.3; 270.4, including the corrections in the Federal Register dated March 18, 2010 (75 FR 12989) <http://www.flrules.org/Gateway/reference.asp?No=Ref-00590>; 270.6; 270.10 except for the optional amendments to 270.10(a) and (h) in the Federal Register dated September 8, 2005 (70 FR 53419); 270.11; 270.12 through 270.28; 270.30; 270.31; 270.32(b)(2); 270.33; 270.51 except for the optional amendments to 270.51(e) in the Federal Register dated September 8, 2005 (70 FR 53419); 270.61; 270.62; 270.65; 270.66; 270.68; 270.72; 270.79 through 270.230; and 270.235. For the optional amendments excepted in this section, the language in effect on September 8, 2005 remains in effect.

(2)(a) Applicants for hazardous waste permits shall use the following forms, which are hereby adopted and incorporated by reference, and shall comply with subsection (7) of this section:

1. Part 1 – General, Form 62-730.900(2)(a), effective date January 29, 2006.
2. Well Construction Summary Report, Form 62-730.900(2)(b), effective date January 29, 2006.
3. Information Regarding Potential Releases from Solid Waste Management Units, Form 62-730.900(2)(c), effective date January 29, 2006.
4. Certification, Form 62-730.900(2)(d), effective date January 29, 2006. Rule 62-730.900, F.A.C., contains information on obtaining copies of these forms.

(b) The Department shall, upon request of the applicant, combine applications for all required hazardous waste permits at the same hazardous waste facility into one issued permit. The fee for a combined application shall be the highest of all applicable fees. Operation under a combined construction and operation permit shall not begin until the facility is in full compliance with 40 CFR Part 264 standards.

(3) All applicants for hazardous waste authorizations (including permits) shall supply the number of copies of applications and supporting documents requested by the Department. All copies shall contain original signatures and seals in all instances where a signature or certification is required. Except as otherwise instructed in this rule, all applications shall be sent for review and determination to the Hazardous Waste Regulation Section, MS 4560, Division of Waste Management, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(4) All applicants for a hazardous waste authorization shall indicate all other federal and state laws that may apply to the activity for which authorization is requested.

(5) 40 CFR 261.5(f)(3)(iii) and 40 CFR 261.5(g)(3)(iii) [as adopted in subsection 62-730.030(1), F.A.C.] provide that waste generated by conditionally exempt small quantity generators (“CESQG waste”) must be delivered to certain specified facilities, including a facility “authorized to manage hazardous waste by a State with a hazardous waste management program approved under Part 271 of this chapter.” Florida is such a state. The Department’s authorization to manage CESQG waste shall include facility-

specific operating conditions, including location, generator responsibilities, amount and type of wastes, time limits, and recordkeeping, as appropriate to the request and generator status of the authorized person.

(6) Within 60 days after receipt of an application for a hazardous waste facility authorization, the Department shall examine the application and notify the applicant of apparent errors or omissions and request additional information through a Notice of Deficiency (NOD). The applicant shall respond to the Department within the time limit set forth in the NOD or within 30 days of receipt of the NOD, if no time limit is set forth in the NOD. Failure to provide complete and adequate responses to an NOD with respect to application for a hazardous waste authorization within the time limit is a violation of this rule.

(7) Applicants for a hazardous waste permit shall include with Part II of their permit application all of the following information, as applicable, in addition to that required by the sections of 40 CFR Part 270 adopted in subsection (1) of this section.

(a) Owners or operators of facilities that store or propose to store containers of hazardous waste shall include a complete description of the procedures used to comply with 40 CFR 264.171, 264.172 and 264.173.

(b) Owners or operators of facilities that use or propose to use tank systems for storage or treating hazardous waste shall include a copy of the complete plan describing their response to leaks or spills and disposition of leaking or unfit-for-use tank systems as required by 40 CFR 264.196. For tank systems that do not meet the containment requirements of 40 CFR 264.193, the application shall include a complete description of the leak test or other approved method used to comply with 40 CFR 264.193(i)(1), (2) and (3).

(c) Owners or operators of facilities that treat or dispose of hazardous waste in land treatment units or propose the use of land treatment units shall include:

1. A complete description of an unsaturated zone monitoring program that complies with 40 CFR 264.278; and
2. A complete statement of how the recordkeeping requirements of 40 CFR 264.279 will be met.

(d) Owners or operators of facilities that dispose or propose to dispose of hazardous waste in landfills shall include a complete description of how the surveying and recordkeeping requirements of 40 CFR 264.309 will be met.

(e) The owners or operators of facilities that incinerate or propose to incinerate hazardous waste shall include a certification of the results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity. The certification shall include a statement about the precision and accuracy of these measurements for any previously conducted trial burn.

(f) The owners or operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units or propose the use of miscellaneous units shall include a complete explanation of how the requirements of 40 CFR 264.17 will be met if ignitable, reactive, or incompatible wastes are to be placed in the miscellaneous unit.

(g) Owners or operators of hazardous waste treatment, storage or disposal facilities that intend to operate a transfer facility at the facility shall submit information that demonstrates compliance with Rule 62-730.171, F.A.C., as part of the hazardous waste facility permit application which is described in Rule 62-730.220, F.A.C.

(8) All applications for an authorization shall be certified by the facility owner, facility operator, and real property owner. The determination of the proper person to sign applications as owner, operator and real property owner shall be made in accordance with the provisions of 40 CFR 270.11.

(9) All applications, plans, specifications, certification of construction completion reports, and other related documents shall be certified by a professional engineer registered in the State of Florida, except as provided in subsection 62-4.050(3), F.A.C.

(10) All applications, plans, specifications and supporting documents, or any part thereof, which involve the practice of professional geology as defined in Chapter 492, F.S., shall be certified by a professional geologist licensed by the State of Florida.

(11) All applications for hazardous waste authorizations shall include all the information required by this part and by Forms 62-730.900(2)(a) through (d). All applications for hazardous waste authorizations that include elements of a Part II permit application shall be submitted in the same format as the instructions provided by the Department. For example, the Closure Plan shall be in "Part II. K" of the application. All applications should be submitted in a standard 3-ring or D-ring binder. Provide a header with the revision number, date and page number on each page of the application. Applications (or revised pages to applications) shall include an index page which indicates all the items being certified by a professional engineer.

*Rulemaking Authority 403.061, 403.087, 403.704, 403.721, 403.722, 403.8055 FS. Law Implemented 403.151, 403.704, 403.707, 403.721, 403.722, 403.723, 403.727 FS. History—New 7-9-82, Amended 1-5-84, 8-19-84, 7-22-85, Formerly 17-30.22, Amended 9-23-87, 6-28-88, 12-12-88, Formerly 17-30.220, Amended 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.220, Amended 1-5-95, 4-30-97, 8-19-98, 2-4-00, 12-20-00, 8-1-02, 10-1-04, 1-29-06, 4-6-06, 5-1-07, 4-25-08, 5-8-09, 10-12-11.*

### **62-730.225 Requirements for Remedial Activities.**

(1) Risk based corrective actions authorized in Section 376.30701, F.S., and cleanup target levels (CTLs) and rules promulgated thereunder in Chapters 62-777 and 62-780, F.A.C., shall apply to remedial activities at hazardous waste facilities, with the following clarifications:

(a) Where a provision in Chapter 62-780, F.A.C., conflicts with a specific, applicable requirement of 40 CFR Part 264 or Part 265, the CFR provision controls.

(b) Remedial activities are subject to the public notice requirements of Rule 62-730.292, F.A.C., and the financial assurance requirements of Rule 62-730.226, F.A.C.

(c) A complete Well Construction Summary Report shall be submitted on Form 62-730.900(2)(b), for each piezometer, groundwater monitoring and recovery well installed as part of remedial activities.

(d) Within 60 days of completion of remedial activities, the owner or operator shall submit to the Department, a certification that the remedial activities were performed in accordance with the specifications in the approved remedial activities plan. In addition to the professional certifications required by rules promulgated pursuant to Section 376.30701, F.S., the certification shall be signed by the owner or operator of the hazardous waste facility. Certification of completion of closure or postclosure care for a regulated hazardous waste surface impoundment, waste pile, land treatment unit, or landfill shall be sent by registered mail.

(2) One electronic copy of field and laboratory data, in field delimited and image formats, shall be submitted to the Department in accordance with the requirements of the permit or other authorization.

(3)(a) The quality assurance provisions of Chapter 62-160, F.A.C., shall apply to remedial activities at hazardous waste facilities. In addition, a sampling and analysis plan (SAP) is required for sampling and analysis at facilities with, or seeking, a hazardous waste permit or other authorization for remedial activities.

(b) The SAP shall contain the following elements:

1. A table showing the proposed constituents, matrices, analytical methods and sampling frequency for the project.
2. A table showing the proposed purging and sampling equipment.
3. A description of proposed management of investigation-derived wastes (IDW) including a statement that IDW that contains hazardous waste will be managed in accordance with Department regulations.
4. A statement that the sampling crew will follow the Department's most recent Standard Operating Procedures (SOPs) or other sampling program approved pursuant to Chapter 62-160, F.A.C. (as effective 6-8-04 or later).
5. A statement that the laboratory used will be accredited by the National Environmental Laboratory Accreditation Program (NELAP) and certified by the Florida Department of Health.

(c) One SAP shall be submitted and amended as appropriate for all sampling and analytical work at a facility. The owner or operator may elect to submit multiple SAPs if different sampling and analytical entities are involved, or the SAP may be a component of another submittal.

(d) Amendments or changes to SAPs shall be submitted if the scope of work is substantially altered or if any of the following circumstances occur:

1. New analytical methods, sampling or other field procedures, or instruments or equipment are added;
2. The sampling or analysis contractor is changed; or
3. Other changes are made as may reasonably be expected to affect the data quality objectives of the project.

(e) If the Department requests amendments to the SAP as specified in paragraph (3)(d) of this section, written amendments shall be submitted within 14 days of receipt of the Department's request. If the owner or operator proposes amendments to the SAP, a new or amended SAP shall be submitted within 14 days of the change.

(4) Owners or operators of sites suspected or confirmed to be contaminated with hazardous waste as defined in Section 403.703(21), F.S., and where a risk of exposure to the public may exist, shall place and maintain warning signs. Unless different conditions are approved by the Department in a site-specific authorization, the signs shall be as described in this subsection.

(a) Warning signs shall be at least 2 feet by 2 feet, made of durable weather resistant material, with a lettering in a color that highly contrasts with the background. All lettering must be at least 1 inch high.

(b) Warning signs shall be unobstructed and be mounted in such a manner that the center of the sign is approximately 56 inches above ground surface and is capable of being seen from at least 75 feet away from all access locations.

(c) Warning sign text shall warn of danger, prohibit the entry of unauthorized persons, convey other information appropriate to site conditions, and include a telephone number to call for more information.

**62-730.226 Financial Assurance for Remedial Activities.**

(1) Unless otherwise exempted from corrective action financial assurance requirements pursuant to state or federal law, the following persons shall establish and maintain financial assurance for remedial activities using the appropriate forms adopted in subsection 62-730.180(6), F.A.C.:

(a) An owner or operator who is required to establish a corrective action program under 40 CFR 264.100 or 264.101 [as adopted in subsection 62-730.180(1), F.A.C.]; and

(b) An owner or operator who undertakes remedial activities pursuant to an operating permit, a postclosure permit, a corrective action permit or clean closure plan.

(2) An owner or operator as described in subsection (1) of this section shall provide a detailed written cost estimate in undiscounted current dollars. The cost estimate shall include all projected remedial activities. At a minimum, the cost estimate shall equal the estimated cost of completing such remedial activities according to the schedule and methods outlined in a plan for the remedial activities.

(3) The cost estimate for remedial activities shall:

(a) Itemize the separate costs for each year;

(b) Indicate the sum of the separate costs for each year;

(c) Indicate the sum of all the costs for remedial activities; and

(d) Be based on the costs to the owner or operator of hiring a third party to perform remedial activities at the facility according to the methods specified in the approved remedial activities plan. A third party is a party that is neither a parent nor subsidiary of the owner or operator.

(4) The cost estimate for remedial activities shall:

(a) Not incorporate any salvage value that may be gained by the sale of hazardous wastes, facility structure or equipment, land or other facility assets at the time of partial or final closures; and

(b) Incorporate a zero cost for hazardous waste that might have economic value.

(5) The owner or operator of a facility required to undertake remedial activities shall:

(a) Choose from the options described in 40 CFR 264.143 [as adopted in subsection 62-730.180(1), F.A.C.] to provide financial assurance for remedial activities and comply with the requirements of 40 CFR 264.143.

(b) Submit the appropriate forms adopted in paragraphs 62-730.900(4)(a), (b), (c), (e), (f), (g), (h), (i), and (j), F.A.C. Photocopies of Department supplied forms are acceptable. Retyped forms are not acceptable and will be returned.

(c) Provide financial assurance within 30 days of notification by the Department that the cost estimate is approved.

(6) The owner or operator shall adjust the cost estimate for remedial activities, including the cost estimates for each year of remedial activities, for inflation within 60 days prior to the anniversary date of the established financial instrument(s). For owners or operators using the financial test or corporate guarantee, the cost estimate for remedial activities shall be updated for inflation before submission of updated information as specified in 40 CFR 264.143(f)(3) [as adopted in subsection 62-730.180(1), F.A.C.].

(7) The owner or operator shall revise the cost estimate for remedial activities no later than 30 days after the Department approves a request to modify specified remedial activities if the change increases the cost or expected duration of remedial activities. The revision shall reflect any change in the total number of years required to perform the remedial activities and any changes in the estimated costs for each year of the remedial activities. The owner or operator shall adjust the revised costs for inflation as specified in subsection (6) of this section.

(8) An owner or operator may obtain a financial assurance variance upon a complete and adequate showing that the owner or operator is unable to obtain or provide financial assurance. Such showing shall include annual documentation of efforts to obtain or provide financial assurance; a copy of the most recent federal tax returns filed by the owner or operator; and an audited financial statement prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP). The financial statement shall consist of a balance sheet, statement of income and statement of cash flows. A statement of retained earnings shall also be provided where applicable to the entity providing the financial statement.

### **62-730.231 Newly Regulated Facilities.**

*Rulemaking Authority 403.704, 403.722, 403.814 FS. Law Implemented 403.704, 403.722, 403.8055 FS. History—New 9-23-87, Amended 6-28-88, Formerly 17-30.231, Amended 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.231, Amended 1-5-95, 1-29-06, Repealed 2-16-12.*

### **62-730.240 Operation Permits.**

(1) No person shall begin operation of a hazardous waste facility without applying for and receiving an operation permit from the Department. Application for operation permits shall be made on DEP Forms 62-730.900(2)(a) through (2)(d) as adopted in paragraph 62-730.220(2)(a), F.A.C.

(2)(a) The period of operation includes the closure period.

(b) No later than 180 days before the date upon which the owner or operator expects to begin closure of the facility, the owner or operator shall apply for any modification of the operation permit necessary to detail, supplement, amend, revise, update or complete any approved closure plan.

(3) Within 60 days of completion of closure, the owner or operator of the hazardous waste facility shall submit to the Department a certification that the facility has been closed in accordance with the specifications in the closure plan. The certification shall be signed by both the owner or operator of the hazardous waste facility and an independent registered professional engineer.

(4) In the event that the owner or operator of a permitted hazardous waste management unit is unable to clean close the unit without controls within the time limits allowed by the operation permit, all postclosure care and/or corrective action requirements shall apply to the unit which will be called a "postclosure unit". If the operation permit authorizes operation of hazardous waste management units other than the postclosure unit, the owner or operator shall apply for modification or renewal of the operation permit to include postclosure and/or corrective action conditions applicable to the postclosure unit. If the only units authorized by the operation permit are postclosure units (or units that have been clean closed without controls, in addition to the postclosure unit), the owner or operator must obtain a postclosure and/or corrective action permit from the Department.

(5) Facilities which are closing under 40 CFR Part 264 standards [as adopted in subsection 62-730.180(1), F.A.C.] which have not been required to meet performance standards for new landfills, shall not be required to meet the double liner and leachate collection requirement of 40 CFR Part 264 Subpart N at closure.

(6) Hazardous waste facilities that are issued an operation permit shall comply with 40 CFR Part 264 standards [as adopted in subsection 62-730.180(1), F.A.C.], except for hazardous waste management units for which no 40 CFR Part 264 standards have been adopted in which case 40 CFR Part 265 standards [as adopted in subsection 62-730.180(2), F.A.C.] shall apply.

(7) Operation permits shall be issued for up to five years and shall be renewable. Operation permits shall not be issued for less than five years without cause.

*Rulemaking Authority 403.087, 403.704, 403.707, 403.721, 403.722 FS. Law Implemented 403.704, 403.707, 403.721, 403.722 FS. History—New 7-9-82, Formerly 17-30.24, Amended 9-23-87, Formerly 17-30.240, Amended 9-10-91, 10-14-92, Formerly 17-730.240, Amended 1-29-06.*

### **62-730.250 Construction Permits.**

(1) No person shall begin construction or major modification of any unit at a hazardous waste facility without applying for and receiving a construction permit from the Department. Application for construction permits shall be made on DEP forms adopted in paragraph 62-730.220(2)(a), F.A.C.

(2) If a construction permit for an incinerator allows a period of time necessary for trial burns pursuant to 40 CFR Part 264 Subpart O [as adopted in subsection 62-730.180(1), F.A.C.] the owner or operator of such an incinerator shall submit a complete application for an operation permit within 90 days after a trial burn or within 180 days before expiration of the construction permit, whichever date is sooner. After the completion of a successful trial burn, an owner or operator of an incinerator may operate under the construction permit until final agency action is taken on the operation permit, provided the facility is in compliance with 40 CFR Part 264 standards and the conditions of the construction permit.

(3) An owner or operator of a facility other than an incinerator may operate under its construction permit until final agency action is taken on the operation permit so long as the facility is in compliance with 40 CFR Part 264 standards, and makes timely application for an operation permit. For the purposes of this rule, timely application shall mean a complete application for an operation permit at least 180 days prior to expiration of the construction permit and within 90 days of completion of construction, whichever occurs first.

(4) Notwithstanding subsection (1) of this section, no permit shall be required under this section in order to construct a facility if

such facility is constructed pursuant to approval by the Department and EPA under appropriate regulatory programs for the incineration of polychlorinated biphenyls. Any person owning or operating such a facility may at any time after construction or operation has begun, file a complete operation permit application to incinerate hazardous waste at the facility.

(5) No major modification to a facility, which includes the construction or expansion of hazardous waste management units shall be undertaken without application for and receipt of a construction permit. Modifications which do not require a construction permit may require a permit modification under Rule 62-730.290, F.A.C. No construction permit shall be required for changes made solely for the purpose of complying with the requirements of 40 CFR 265.193 [as adopted in subsection 62-730.180(2), F.A.C.]

(6) No person operating a hazardous waste transfer facility may alter operations or modify the facility so that it becomes a hazardous waste treatment, storage or disposal facility without first obtaining a hazardous waste construction permit.

*Rulemaking Authority 403.087, 403.704, 403.707, 403.721, 403.722 FS. Law Implemented 403.704, 403.707, 403.721, 403.722 FS. History—New 7-9-82, Formerly 17-30.25, Amended 9-23-87, 12-12-88, Formerly 17-30.250, Amended 7-3-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.250, Amended 1-5-95, 1-29-06.*

### **62-730.260 Permits for Remedial Activities.**

(1) Except as authorized by the Department pursuant to this chapter, no person shall conduct remedial activities, as defined in Rule 62-730.210, F.A.C., at a hazardous waste facility without applying for and receiving a hazardous waste permit that includes conditions for remedial activities. Such permits include operation permits, postclosure permits, and corrective action permits. Where applicable, corrective action conditions shall be incorporated into a postclosure or operation permit.

(2) The owner or operator shall apply for a postclosure or corrective action permit on DEP forms adopted in paragraph 62-730.220(2)(a), F.A.C., either:

(a) At the time specified in a permit issued under this chapter; or

(b) Within 90 days of receipt of notification from the Department that a postclosure or corrective action permit is required.

(3) The owner or operator shall pay applicable fees pursuant to Rule 62-730.293, F.A.C., until the remedial activities are complete.

(4) The owner or operator shall apply for renewal of the postclosure or corrective action permit at least 180 days prior to its expiration throughout the remedial activities period.

(5) The term of a postclosure permit and a corrective action permit shall be 10 years.

(6) If postclosure plans have been approved by the Department as part of another application, the applicant for a postclosure permit shall include a copy of the approved postclosure plan with the application. The applicant shall also either:

(a) Attach a certification stating that no changes have been made to the plans; or

(b) Provide an amended plan showing all the changes which have been made, or are proposed to be made to the plans.

(7) Within 60 days of completion of the established postclosure care period for each hazardous waste unit, the owner or operator of the hazardous waste facility shall submit to the Department, by registered mail, a certification that the postclosure care period for each hazardous waste unit was performed in accordance with the specifications in the approved postclosure plan. The certification shall be signed by the owner or operator of the hazardous waste facility and an independent registered, professional engineer.

(8) A hazardous waste facility that closes with waste in place must record a deed notice pursuant to 40 CFR 264.119 or 40 CFR 265.119 "in accordance with State law." In Florida, this requirement must be fulfilled by the following:

(a) A restrictive covenant that runs with the land; or

(b) For government-owned facilities that are not transferred out of government ownership, a property management plan or land use control remedial design or corrective measures implementation plan that effectively controls exposure risks.

*Rulemaking Authority 403.704, 403.707, 403.721, 403.722 FS. Law Implemented 403.087, 403.704, 403.707, 403.721, 403.722 FS. History—New 7-9-82, Formerly 17-30.26, Amended 9-23-87, 6-28-88, Formerly 17-30.260, Amended 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.260, Amended 1-5-95, 1-29-06.*

### **62-730.265 Clean Closure Plans at Unpermitted Facilities and Subpart H Remedial Action Plans.**

(1) Owners and operators of unpermitted hazardous waste facilities subject to the permitting requirements of 40 CFR Parts 264 or 270 may perform remedial activities in accordance with the provisions of this chapter by obtaining an alternate enforceable document that meets the requirements of 40 CFR 265.121 [as adopted in subsection 62-730.180(2), F.A.C.], with clean closure plan requirements. Except as provided in 40 CFR 264.1(g)(8) [as adopted in subsection 62-730.180(1), F.A.C.] no person shall conduct

remedial activities at an unpermitted hazardous waste facility without applying for and receiving a hazardous waste permit, or complying with a clean closure plan issued by the Department or an order issued by EPA pursuant to §3008(h) of RCRA [42 USC §6928(h)].

(2) Owners and operators of unpermitted hazardous waste facilities subject to the permitting requirements of 40 CFR Part 264 [as adopted in subsection 62-730.180(1), F.A.C.] or 40 CFR Part 270 [as adopted in subsection 62-730.220(1), F.A.C.] shall comply with the provisions for remedial activities of Rule 62-730.225, F.A.C., the financial assurance provisions of Rule 62-730.226 and the public notice requirements of Rule 62-730.292, F.A.C.

(3) Owners and operators of remediation sites where hazardous remediation waste as defined in 40 CFR 260.10 [as adopted in subsection 62-730.020(1), F.A.C.] is generated, may apply for approval of a Subpart H RAP in accordance with the requirements and procedures of 40 CFR Part 270 Subpart H [as adopted in subsection 62-730.220(1), F.A.C.] in order to treat, store or dispose of the hazardous remediation waste. All applications for a Subpart H RAP shall be sent to the appropriate department project manager.

(4) The Department periodically prepares or updates a summary of options for management of environmental media (soil, sediments, groundwater, surface water) that contains hazardous waste. This summary is updated from time to time and is referenced for informational purposes only. Use of the summary is not mandatory. A copy can be obtained by contacting the Hazardous Waste Regulation Section, MS 4560, Division of Waste Management, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or by locating the publication entitled "Management of Contaminated Media Under RCRA" at <http://www.dep.state.fl.us/waste/categories/hazardous/pages/publications.htm>.

*Rulemaking Authority 403.704, 403.707, 403.721, 403.722 FS. Law Implemented 403.704, 403.707, 403.721, 403.722 FS. History—New 1-29-06.*

#### **62-730.270 Exemptions.**

(1) No permit under this chapter shall be required for the following:

(a) An ocean disposal barge or vessel, if the owner or operator:

1. Has and complies with a Federal permit for ocean dumping issued under 40 CFR Part 220, and
2. Complies with 40 CFR 264.11, 264.71, 264.72, 264.73(a) and (b)(1), 264.75, and 264.76 [as adopted in subsection 62-730.180(1), F.A.C.].

(b) A Publicly Owned Treatment Works (POTW), if the owner or operator:

1. Has and complies with a National Pollutant Discharge Elimination System (NPDES) permit, if required, and an applicable State domestic waste permit issued by the Department,
2. Complies with 40 CFR 264.11, 264.71, 264.72, 264.73(a) and (b)(1), 264.75, and 264.76 [as adopted in subsection 62-730.180(1), F.A.C.],
3. Accepts only waste which meets all Federal, State, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance, and
4. For permits issued after November 8, 1984, complies with 40 CFR 264.101 [as adopted in subsection 62-730.180(1), F.A.C.].

(c) An injection well, if the owner or operator:

1. Has and complies with a State underground injection permit issued by a federally approved State Underground Injection Control program,
2. Complies with 40 CFR 264.11, 264.16, 264.71, 264.72, 264.73(a),(b)(1), and (b)(2), 264.75, and 264.76 [as adopted in subsection 62-730.180(1), F.A.C.], and
3. For permits issued after November 8, 1984, complies with 40 CFR 264.101 [as adopted in subsection 62-730.180(1), F.A.C.].

(2) Notwithstanding any other provision in Chapter 62-730, F.A.C., a facility which has been issued a permit under this chapter shall not be required to obtain a Department solid waste permit for the activities addressed in the hazardous waste permit.

(3) The following persons shall not be required to obtain a hazardous waste TOP, operation, construction, or closure permit:

(a) Generators of hazardous waste and hazardous waste facilities exempted or excluded from the hazardous waste permit program under other applicable provisions of federal or state law, rules or regulations, so long as all conditions of the exemption or exclusion are met.

(b) Generators of waste or facilities managing such wastes if those wastes are specifically excluded from the hazardous waste program under other applicable provisions of federal or state law, rules or regulations, so long as all conditions of the exclusion are met.

*Rulemaking Authority 403.704, 403.721, 403.722 FS. Law Implemented 403.704, 403.7045, 403.721, 403.722 FS. History—New 7-1-82, Formerly*

*17-30.27, Amended 9-23-87, Formerly 17-30.270, 17-730.270, Amended 1-29-06.*

**62-730.290 Modification and Transfer of Permits and Other Authorizations.**

(1) After notice, and administrative hearing if requested by a substantially affected party, the Department shall require the owner or operator to conform to new or additional conditions upon a showing of good cause. For the purposes of this rule good cause shall be limited to the following:

(a) The standards or rules on which the permit or other authorization was based have been changed by amendment or judicial decision after the permit was issued or the authorization was granted;

(b) The Department has received information which was not available at the time of authorization and would have justified different conditions;

(c) There are alterations in the facility after authorization which justify different conditions but do not require a construction permit; or

(d) The causes set forth in subsection 62-4.080(1), F.A.C., and 40 CFR 270.41 and 270.42.

(2) When a permit or other authorization is to be modified only the conditions subject to modification are opened. All other aspects of the permit or other authorization shall remain in effect.

(3) Upon a written request by the owner or operator and submittal of the appropriate modification fee, the Department shall grant or deny modifications.

(4) Modifications to permits or other authorizations which are Class 2 and Class 3 modifications as set forth in 40 CFR 270.42 [as adopted in subsection 62-730.220(1), F.A.C.], shall be accompanied by a public notice as required in Rule 62-730.292, F.A.C. Modifications which are Class 1 modifications as set forth in 40 CFR 270.42, are minor modifications and may be made without public notice.

(5) With respect to postclosure and corrective action permits only, the permittee may request a permit modification to achieve CTLs based on secondary standards or based on nuisance, organoleptic or aesthetic considerations, which includes termination of financial responsibility requirements for remedial activities and changes to the groundwater plan, or may enter into a consent order (CO) in lieu of a permit and request termination of the hazardous waste postclosure or corrective action permit, when the permittee can demonstrate that the only contamination that remains at or from the facility is groundwater contamination in excess of CTLs based on secondary standards or based on nuisance, organoleptic or aesthetic considerations.

(6)(a) Application for transfer of a hazardous waste facility permit or other authorization shall be made at least 90 days before the effective date of the transfer on the Application for Transfer of A Permit Form 62-730.900(1)(a), effective date January 29, 2006, which is hereby adopted and incorporated by reference. Rule 62-730.900, F.A.C., contains information on obtaining a copy of this form.

(b) With respect to permits, the applicant shall comply with Section 403.722(13), F.S., and the application shall include:

1. A properly completed Application for Transfer of A Permit, Form 62-730.900(1)(a).

2. A statement as to how the new owner or operator intends to meet the financial responsibility requirements adopted in Rules 62-730.180 and 62-730.226, F.A.C. The new owner or operator must demonstrate financial responsibility within six months of the date of the change of ownership or operational control of the facility. The prior owner or operator shall comply with the requirements of 40 CFR Part 264 Subpart H [as adopted in subsection 62-730.180(1), F.A.C.] and 62-730.226, F.A.C., until the new owner or operator has demonstrated compliance.

3. A completed application for a Hazardous Waste Facility Permit Part I, Form 62-730.900(2)(a).

4. A completed application for a Hazardous Waste Facility Permit Certification, Form 62-730.900(2)(d).

(c) All applications for transfer of a permit or other authorizations shall include either a certification stating that no changes are to be made which would require modification of the authorization or a proposal for modification.

*Rulemaking Authority 403.087, 403.704, 403.722 FS. Law Implemented 403.087, 403.704, 403.722 FS. History—New 7-9-82, Amended 10-25-84, Formerly 17-30.29, Amended 9-23-87, Formerly 17-30.290, Amended 7-3-89, 9-10-91, 10-7-93, Formerly 17-730.290, Amended 1-29-06.*

**62-730.291 Permit Renewal.**

(1) Prior to 180 days before the expiration of any hazardous waste permit, the permittee shall complete an application for a permit renewal, unless the facility has obtained or will obtain a facility-wide clean closure determination, without controls, or has entered or will enter into a CO to address CTLs based on secondary standards or based on nuisance, organoleptic or aesthetic

considerations prior to the expiration of an existing permit. The Department will review the renewal permit application and issue or deny the permit in accordance with 40 CFR 270.51 [as adopted in subsection 62-730.220(1), F.A.C.].

(2) The application requirements for renewal of a permit are as follows:

(a) Owners or operators of facilities where there are changes to the facility plan or its operation (including closure) or remedial activities, or there are regulatory changes that effect its operation (including closure) or remedial activities, shall submit a letter describing the changes, all attachments necessary to completely describe the change, a completed Application for a Hazardous Waste Facility Permit Certification, Form 62-730.900(2)(d), and the permit renewal fee.

(b) Owners or operators of facilities which have operated or are conducting remedial activities (including closure) under the existing permit without any facility or regulatory changes shall submit a letter stating that there are no changes to the application filed in support of the existing permit, a completed Application for a Hazardous Waste Facility Permit Certification, Form 62-730.900(2)(d), and the permit renewal fee.

*Rulemaking Authority 403.704, 403.722 FS. Law Implemented 403.704, 403.722 FS. History—New 7-1-82, Formerly 17-30.30, Amended 9-23-87, 6-28-88, Formerly 17-30.300, Amended 8-13-90, 10-14-92, 10-7-93, Formerly 17-730.300, Amended 1-5-95, Formerly 62-730.300, Amended 1-29-06.*

#### **62-730.292 Public Notice for Hazardous Waste Permits and Other Authorizations.**

(1) The pre-application public meeting requirements of 40 CFR 124.31 [as adopted in subsection 62-730.200(3), F.A.C.] apply to:

(a) Initial applications for construction or operation of a hazardous waste treatment, storage or disposal facility; and

(b) Operation permit renewals which propose a significant change in facility operations.

(2) The following applicants shall comply with the requirements of Section 403.722(12), F.S.:

(a) The applicant for a permit to construct or operate a hazardous waste treatment, storage or disposal facility; and

(b) The applicant for a modification or renewal of a construction or operation permit.

(3) The owner or operator shall cause notice of the Department's action to be published in a major local newspaper or newspapers of general circulation within 30 calendar days of receipt of:

(a) The Department's notice of intent to issue, modify, renew or terminate a hazardous waste permit; variance; or closure equivalency demonstration;

(b) An executed copy of an authorization from the Department to implement a clean closure plan;

(c) Approval by the Department of a remediation plan under 40 CFR Part 270 Subpart H [as adopted in subsection 62-730.220(1), F.A.C.]; and/or

(d) A clean closure determination.

(4) The owner or operator shall cause the Department's intent to issue a construction or operation permit (including modifications and renewals) to be broadcast over a local radio station.

(5) The notice for any hazardous waste permit or other hazardous waste authorization (except a variance) shall provide a 45-day period during which any person may comment on the Department's action or request an informal public meeting and a substantially affected party may request a hearing pursuant to Sections 120.569 and 120.57, F.S. The notice period for a variance pursuant to 40 CFR 260.31, 260.32 and 260.33 [as adopted in subsection 62-730.021, F.A.C.] shall be 30 days. The notice period for any other hazardous waste variance shall be 15 days. The notice shall contain instructions on how to examine a copy of the agency action and how members of the public can avail themselves of these rights and opportunities.

(6) The applicant shall provide the Department with proof of the publication and broadcast required by this section within 14 days of the receipt of proof of publication, but no later than 45 days after the applicant receives the Department's action.

(7) If within the applicable time limit after publication and broadcast as required in this section the Department receives written notice of opposition to the agency's intention to issue such authorization and a request for a hearing, the Department shall provide for a hearing pursuant to Sections 120.569 and 120.57, F.S., if requested by a substantially affected party or an informal public meeting if requested by any other person. The Department shall provide at least 30 days public notice prior to the holding of such hearing or meeting. Failure to request a hearing within the applicable time period shall constitute a waiver of the right to a hearing under Sections 120.569 and 120.57, F.S.

*Rulemaking Authority 403.061, 403.087, 403.704, 403.721, 403.722 FS. Law Implemented 403.151, 403.704, 403.707, 403.721, 403.722 FS. History— New 1-29-06.*

**62-730.293 Fees for Hazardous Waste Permits and Other Authorizations.**

(1) Notwithstanding Chapter 62-4, F.A.C., the hazardous waste permit fees are as follows:

(a) Construction of a commercial treatment, storage, or disposal facility with a commercial incinerator, boiler or industrial furnace managing hazardous waste generated off-site.	\$32,500
(b) Operation of a commercial treatment, storage or disposal facility with a commercial incinerator, boiler or industrial furnace managing hazardous waste generated off-site.	
(c) Department variance from federal regulations under 40 CFR 260.30.	
(d) A variance from classification as a solid waste; a variance to be classified as a boiler; a variance from tank containment and release detection requirements; or an exclusion determination for trivalent chromium waste.	
(e) All other hazardous waste facility authorizations for which a specific fee is not specified in this subsection.	
(f) Construction of a hazardous waste landfill, surface impoundment, waste pile, land treatment, or miscellaneous unit.	\$25,000
(g) Construction of a hazardous waste treatment, storage or disposal facility with an incinerator, boiler or industrial furnace for treatment of hazardous waste generated on-site.	
(h) Construction of a container or tank hazardous waste storage and treatment facility.	\$20,000
(i) A postclosure-only; or corrective action-only; or combination postclosure/corrective action-only authorization (i.e. a permit or an enforceable document).	\$20,000 for 10 years or \$2,000 per year
(j) Construction of a container or tank hazardous waste storage facility.	\$15,000
(k) Operation of a hazardous waste landfill, surface impoundment, waste pile, land treatment or miscellaneous unit.	
(l) Operation of a hazardous waste treatment, storage or disposal facility with an incinerator, boiler or industrial furnace for treatment of hazardous waste generated on-site.	
(m) Operation of a container or tank hazardous waste storage or storage and treatment facility.	\$10,000
(n) Substantial modifications that require a moderate technical evaluation by the Department. Examples include alterations of the existing facility or its operation which will require additional site-specific evaluation.	
(o) A hazardous waste variance other than those in paragraph (c) or (d).	\$5,000
(p) Moderate modifications that require moderate technical evaluation by the Department. These modifications require a new site inspection, lead to different environmental impacts, or lessen the impacts of the original permit.	
(q) An operation permit renewal (closure or remedial activities conditions only) or a clean closure plan.	\$2,000 per year
(r) A Research, Development and Demonstration (RDD) permit.	\$2,000
(s) A “contained out” determination for soil or groundwater that contained hazardous waste and has undergone remedial activities.	\$1,000 (no fee for contained
(t) A renewal of a two-year variance.	determination
(u) Minor modifications that are not otherwise specified. These include common or frequently occurring changes needed to maintain a facility’s capacity to manage wastes safely, minor changes in groundwater monitoring plans, or modifications to conform to new requirements.	if incorporated into another authorization with a fee)
(v) A Subpart H remedial action plan (Subpart H RAP) for on-site treatment, storage, or disposal of hazardous remediation waste.	no fee required
(w) Substantial modifications that require significant changes to an existing authorization or clean closure plan and extensive evaluation by the Department. Examples include alteration of the existing facility; change in the facility plan, groundwater monitoring program assessment, or the remediation/engineering design; or other general facility standard.	same fee as a new application

(2) Fees for construction permits, operation permits and temporary operation permits (TOPs) may not be paid on a “per year” basis. Authorization fees established on a “per year” basis shall be payable as follows:

(a) Paying on a yearly basis is optional. If the applicant does not choose to pay on a yearly basis, the applicant shall submit whichever of the following is applicable with the application:

1. The entire payment for a five-year authorization which is equal to 5 times the “per year” fee amount; or
2. The entire payment for a 10-year authorization which is equal to 10 times the “per year” fee amount.

(b) If the applicant chooses the yearly payment option, the fee that accompanies the application shall be the amount established for one year. The next fee payment shall be due on the first anniversary of the effective date of the authorization. Each succeeding fee payment shall be due on the anniversary date of the effective date of the authorization. The applicant may choose to submit the fee for more than one year at a time, up to the maximum fee for the life of the permit. Failure to submit any fee payment shall be a violation of this rule and shall be grounds for termination of the authorization and other enforcement action. If payment of an annual fee is late, the annual fee shall increase \$20 for each overdue day, up to a maximum increase of \$3,250 per year.

*Rulemaking Authority 403.087, 403.201, 403.704, 403.722 FS. Law Implemented 403.087, 403.201, 403.704, 403.722 FS. History—New 1-29-06.*

### **62-730.320 Emergency Detonation or Thermal Treatment of Certain Hazardous Waste.**

(1) “Explosives or munitions emergency response specialist” (EMER Specialist) means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. EMER Specialists are limited to Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and civilian or contractor personnel certified by DOD in emergency explosive ordnance disposal; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

(2) “Explosives or munitions emergency” (“EME”) means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health (including safety) or the environment (including property), as determined by an EMER Specialist.

(3) “Explosives or munitions emergency response” (“EME Response”) means all immediate response activities by an EMER Specialist to control, mitigate, or eliminate the actual or potential threat encountered during an EME. An EME Response may include in-place render-safe procedures; treatment or destruction of the explosives or munitions; and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an EME Response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the EME.

(4) “Person having initial custody of the waste” means a person who has authority to request assistance from an EMER Specialist regarding the explosives or munitions waste that is the object of the EMER. This could be the owner of the waste; the person who generated the waste; the person who caused the waste to be at the location where found; or the owner of the real property where the waste is or was located (i.e. the real property where the EMER began); or an agent or tenant of the real property owner.

(5) If an EMER Specialist determines that an EME Response is necessary to protect human health or the environment, that specialist:

(a) Is not required to comply with the standards of 40 CFR Part 262 [as adopted in subsection 62-730.160(1), F.A.C.] applicable to generators of hazardous waste;

(b) Is not required to comply with the standards of 40 CFR Part 264 [as adopted in subsection 62-730.180(1), F.A.C.] or 40 CFR Part 265 [as adopted in subsection 62-730.180(2), F.A.C.] applicable to treatment, storage, and disposal of hazardous waste;

(c) May authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest.

(6) All EME Responses involving waste that is reactive, shock sensitive, or explosive and can only be safely disposed through immediate detonation or thermal treatment, are subject to the following specific conditions:

(a) The person having initial custody of the waste shall notify the Department of the name, address and telephone number of the person having initial custody of the waste; the type and amount of waste; the anticipated time and place of the treatment or detonation; and procedures for detonation or treatment. After the Department has been notified the EME Response can proceed. The local Department representative or designee may be present to observe the detonation or treatment; however, the EME Response need not be delayed solely in order for the Department representative to arrive.

(b) The detonation or treatment shall be conducted or supervised by an EMER Specialist.

(c) Prior to detonation or treatment, the site shall be secured and no site access allowed except by authorized personnel. The area around the site shall be visually inspected to assure that no unauthorized personnel are present. The securing and inspections of the site shall be made to at least the following distances:

POUNDS OF WASTE EXPLOSIVE	MINIMUM DISTANCE
0 to 100	204 meters (670 feet)
101 to 1,000	380 meters (1250 feet)
1,001 to 10,000	530 meters (1730 feet)
10,001 to 30,000	690 meters (2260 feet)

(d) Visible residual materials shall be recovered from the site and properly disposed of in accordance with Department rules.

(e) Adequate fire protection to assure confinement and control of any fire resulting from the operation shall be provided.

(7) In the case of EME Responses involving military munitions, the responding EMER Specialist’s organizational unit must retain records for three years identifying the location, dates and time of the EME Response, the responsible persons responding, the type and description of material addressed (including amounts and sampling data, if available), and its disposition.

(8) If an EME Response is clearly not necessary to address the situation and a response can be delayed without compromising safety or increasing the risk posed to life, property, health, or the environment, the person having initial custody of the explosives or munitions shall fulfill the requirements of 40 CFR 270.61 [as adopted in subsection 62-730.220(1), F.A.C.] by providing oral or written notice to the Department and obtaining oral or written authorization from the Department prior to implementing a course of action. If the authorization is oral, it must be followed within five days by a written order. The following provisions apply to authorization under this subsection:

(a) Notice to the Department shall include the name of the person having initial custody of the explosives or munitions and the EMER Specialist(s) involved; a brief description of the explosives or munitions involved, including type, amount, and location; and a brief description of and reasons for the proposed actions, including location(s). Thermal treatment or detonation shall be conducted only at the time and place specified in the notice.

(b) Authorization shall include all applicable requirements of Chapter 62-730, F.A.C., to the extent possible and not inconsistent with the EME.

(c) Compliance with this subsection shall not excuse failure to obtain any other local, state, or federal approval or license which may be required for the activities allowed in this authorization.

(d) Authorization shall not exceed 90 days.

(e) Written orders shall be accompanied by the publication of public notice. This may be accomplished by the person having initial custody of the waste or by the Department.

(f) Within 30 days of the EME activities conducted under the written order, the authorized person shall submit to the Department a complete written summary of the EME activities which shall clearly specify the type and amount of explosives or munitions received and the manner and location of their treatment, storage, or disposal; disposition of any residues from the process; and other pertinent information.

(9) A person having initial custody of the waste shall conduct soil sampling or otherwise provide reasonable assurance to the Department that no residues of the EME Response or any other emergency action regarding explosives or munitions pose a threat to human health or the environment.

*Rulemaking Authority 403.704, 403.721 FS. Law Implemented 403.061, 403.704, 403.721, 403.726 FS. History—New 9-30-85, Formerly 17-30.32, 17-30.320, 17-730.320, Amended 1-5-95, 1-29-06.*

**62-730.900 Forms.**

Forms are listed here by form number. Copies of all forms can be obtained on the internet at [http://www.dep.state.fl.us/waste/quick\\_topics/forms/pages/62-730.htm](http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-730.htm) or by contacting the Hazardous Waste Regulation Section, MS 4560, Division of Waste Management, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. In order to facilitate the initial submission of a complete application, applicants for hazardous waste permits are encouraged to use the Hazardous Waste Facility Permit Application Instructions, which provide guidance to the forms and assistance in assuring that the application complies with the provisions of 40 CFR Part 270 and this chapter.

(1) Notification Forms.

- (a) Application for Transfer of a Permit, January 29, 2006. [Form number 62-730.900(1)(a)]
- (b) 8700-12FL – Florida Notification of Regulated Waste Activity, January 4, 2009. [Form number 62-730.900(1)(b)], which is adopted and incorporated by reference in paragraph 62-730.150(2)(a), F.A.C.
- (2) Application for a Hazardous Waste Facility Permit Forms.
  - (a) Part I – General, January 29, 1996. [Form number 62-730.900(2)(a)]
  - (b) Well Construction Summary Report, January 29, 2006. [Form number 62-730.900(2)(b)]
  - (c) Information Regarding Potential Releases from Solid Waste Management Units, January 29, 2006. [Form number 62-730.900(2)(c)]
  - (d) Certification, January 29, 2006. [Form number 62-730.900(2)(d)]
- (3) Application for a Hazardous Waste Emergency EPA/DEP Identification Number, January 5, 1995. [Form number 62-730.900(3)]
  - (4) Hazardous Waste Financial Responsibility Forms.
    - (a) Hazardous Waste Facility Letter from Chief Financial Officer to Demonstrate Financial Assurance, January 5, 1995. [Form number 62-730.900(4)(a)]
    - (b) Hazardous Waste Facility Letter from Chief Financial Officer to Demonstrate Financial Responsibility, January 5, 1995. [Form number 62-730.900(4)(b)]
    - (c) Hazardous Waste Facility Corporate Guarantee to Demonstrate Financial Assurance, January 5, 1995. [Form number 62-730.900(4)(c)]
    - (d) Hazardous Waste Facility Corporate Guarantee for Liability Coverage, January 5, 1995. [Form number 62-730.900(4)(d)]
    - (e) Hazardous Waste Facility Trust Fund Agreement to Demonstrate Financial Assurance, January 5, 1995. [Form number 62-730.900(4)(e)]
    - (f) Hazardous Waste Facility Standby Trust Fund Agreement to Demonstrate Financial Assurance, January 5, 1995. [Form number 62-730.900(4)(f)]
    - (g) Hazardous Waste Facility Irrevocable Letter of Credit to Demonstrate Financial Assurance, January 5, 1995. [Form number 62-730.900(4)(g)]
    - (h) Hazardous Waste Facility Financial Guarantee Bond to Demonstrate Financial Assurance, January 5, 1995. [Form number 62-730.900(4)(h)]
    - (i) Hazardous Waste Facility Performance Bond to Demonstrate Financial Assurance, January 5, 1995. [Form number 62-730.900(4)(i)]
    - (j) Hazardous Waste Facility Insurance Certificate to Demonstrate Financial Assurance, January 5, 1995. [Form number 62-730.900(4)(j)]
    - (k) Hazardous Waste Facility Certificate of Liability Insurance (Primary Policy), January 5, 1995. [Form number 62-730.900(4)(k)]
    - (l) Hazardous Waste Facility Certificate of Liability Insurance (Excess/Surplus Policy), January 5, 1995. [Form number 62-730.900(4)(l)]
    - (m) Hazardous Waste Facility Endorsement (Primary Policy), January 5, 1995. [Form number 62-730.900(4)(m)]
    - (n) Hazardous Waste Facility Endorsement (Excess/Surplus Policy), January 5, 1995. [Form number 62-730.900(4)(n)]
    - (o) Hazardous Waste Facility Irrevocable Letter of Credit To Demonstrate Liability Coverage, January 29, 2006. [Form number 62-730.900(4)(o)]
    - (p) Hazardous Waste Facility Surety Bond To Demonstrate Liability Coverage, January 29, 2006. [Form number 62-730.900(4)(p)]
    - (q) Hazardous Waste Facility Trust Fund To Demonstrate Liability Coverage, January 29, 2006. [Form number 62-730.900(4)(q)]
    - (r) Hazardous Waste Facility Standby Trust Fund To Demonstrate Liability Coverage, January 29, 2006. [Form number 62-730.900(4)(r)]
- (5) Hazardous Waste Transporter Financial Responsibility Forms.
  - (a) Hazardous Waste Transporter Certificate of Liability Insurance, January 29, 2006. [Form number 62-730.900(5)(a)]
  - (b) Hazardous Waste Transporter Liability Endorsement, January 29, 2006. [Form number 62-730.900(5)(b)]
  - (c) Hazardous Waste Transporter Liability Surety Bond, January 29, 2006. [Form number 62-730.900(5)(c)]

- (d) Hazardous Waste Transporter Status Form, January 5, 1995. [Form number 62-730.900(5)(d)]
- (6) [reserved]
- (7) Compliance Assistance Pilot Project – Florida’s Compliance Certification Package.
  - (a) CAPP Exclusion Statement, October 10, 2002. [Form number 62-730.900(7)(a)]
  - (b) CAPP Compliance Certification Form, October 10, 2002. [Form number 62-730.900(7)(b)]
  - (c) CAPP Return-to-Compliance Plan, October 10, 2002. [Form number 62-730.900(7)(c)]
  - (8) 2005 Hazardous Waste Report Form, January 29, 2006 [Form number 62-730.900(8)]

*Rulemaking Authority 120.53, 403.061, 403.0611 FS. Law Implemented 120.52, 120.53, 120.55, 403.0611, 403.0875, 403.7234 FS. History–New 11-30-82, Amended 4-1-83, 5-5-83, 8-21-83, 3-1-84, 5-31-84, 9-17-84, 10-29-84, 2-11-85, Formerly 17-1.207(1), (3)-(6), Amended 2-6-86, 4-8-86, 9-23-87, Formerly 17-30.401, Amended 6-28-88, 12-12-88, Formerly 17-30.900, Amended 7-3-89, 8-13-90, 9-10-91, 10-14-92, 10-7-93, Formerly 17-730.900, Amended 1-5-95, 10-10-02, 1-29-06, 4-22-07, 10-28-08, 1-4-09.*