

ILLINOIS POLLUTION CONTROL BOARD
February 28, 1991

IN THE MATTER OF:

RCRA DELISTINGS

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R90-17
Identical in Substance
Rulemaking

ADOPTED RULES. FINAL ORDER.

ORDER OF THE BOARD (by J. Anderson):

Pursuant to Section 22.4(a) of the Environmental Protection Act (Act), the Board is amending the RCRA hazardous waste regulations in 35 Ill. Adm. Code 720 and 721.

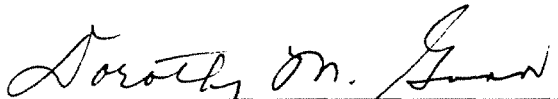
Section 22.4 of the Act governs adoption of regulations establishing the RCRA program in Illinois. Section 22.4(a) provides for quick adoption of regulations which are "identical in substance" to federal regulations; Section 22.4(a) provides that Title VII of the Act and Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the Administrative Procedure Act, it is not subject to first notice or to second notice review by the Joint Committee on Administrative Rules (JCAR). The federal RCRA regulations are found at 40 CFR 260 through 270. This rulemaking makes technical changes to the Board's hazardous waste delisting procedures, based on USEPA's delegation of delisting authority to Illinois at 55 Fed. Reg. 7320, March 1, 1990.

This Order is supported by an Opinion adopted this same day.

The text of the amendments is attached to this Order. The complete text will appear in the Illinois Register in the near future. The Board will allow 30 days for post-adoption comment from the agencies involved in the authorization process before filing the rules.

IT IS SO ORDERED

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 28th day of February, 1991, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

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Appendix A Overview of 40 CFR, Subtitle C Regulations

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-19 at 7 Ill. Reg. 14015, effective Oct. 12, 1983; amended in R84-9, 53 PCB 131 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14

111. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 111. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 111. Reg. effective

SUBPART B: DEFINITIONS

Section 720.111 References

a) The following publications are incorporated by reference:

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 354-3300:

ANSI B31.3 and B31.4. See ASME/ANSI B31.3 and B31.4

API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005, (202) 682-8000:

"Guide for Inspection of Refinery Equipment, Chapter XIII, Atmospheric and Low Pressure Storage Tanks," 4th Edition, 1981, reaffirmed December, 1987.

"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632, Second Edition, December, 1987.

"Installation of Underground Petroleum Storage Systems," API Recommended Practice 1615, Fourth Edition, November, 1987.

ASME. Available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, (212) 705-7722:

"Chemical Plant and Petroleum Refinery Piping", ASME/ANSI B31.3 - 1987, as supplemented by B31.3a - 1988 and B31.3b - 1988. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols", ASME/ANSI B31.4 - 1986, as supplemented by B31.4a - 1987. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, (215) 299-5400:

"ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D-3828-87.

"ASTM Standard Test Methods for Flash Point Pensky-Martens Closed Tester," ASTM Standard D-93-79 or D-93-80.

GPO. Available from the Superintendent of Documents, U.S.

Government Printing Office, Washington, D.C. 20402, (202) 783-3238:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846 (November, 1986) and Revision I (December, 1987), Document Number 955-001-00000-1

NACE. Available from the National Association of Corrosion Engineers, 1400 South Creek Dr., Houston, TX 77084, (713) 492-0535:

"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems", NACE Recommended Practice RP0285-85, approved March, 1985.

NFPA. Available from the National Fire Protection Association, Batterymarch Park, Boston, MA 02269, (617) 770-3000 or (800) 344-3555:

"Flammable and Combustible Liquids Code" NFPA 30, issued July 17, 1987. Also available from ANSI.

NTIS. Available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600:

"Generic Quality Assurance Project Plan for Land Disposal Restrictions Program", EPA/530-SW-87-011, March 15, 1987. (Document number PB 88-170766.)

"Methods for Chemical Analysis of Water and Wastes", Third Edition, March, 1983. (Document number PB 84-128677)

"Petitions to Delist Hazardous Wastes -- A Guidance Manual", EPA/530-SW-85-003, April, 1985. (Document Number PB 85-194488

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities", EPA-530/SW-611, 1977. (Document number PB 84-174820)

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," See GPO.

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, (312) 498-1980:

"Standard for Dual Wall Underground Steel Storage Tanks" (1986).

USEPA. Available from United States Environmental Protection Agency, Office of Drinking Water, State Programs Division, WH 550 E, Washington, D.C. 20460:

"Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells", EPA 570/9-87-002, August, 1987.

- b) Code of Federal Regulations. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238:

10 CFR 20, Appendix B (1989)

40 CFR 136 (1989)

40 CFR 142 (1989)

40 CFR 220 (1989)

40 CFR 260.20 (1989)

40 CFR 264 (1989)

40 CFR 302.4, 302.5 and 302.6 (1989)

40 CFR 761 (1989)

- c) Federal Statutes

Section 3004 of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as amended through December 31, 1987.

- d) This Section incorporates no later editions or amendments.

(Source: Amended at 15 Ill. Reg. , effective)

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section 720.120 Rulemaking

- a) Any person may petition the Board to adopt as State regulations rules which are identical in substance with newly-adopted federal amendments or regulations. The petition shall take the form of a proposal for rulemaking pursuant to 35 Ill. Adm. Code 102. The proposal shall include a listing of all amendments to 40 CFR 260 through ~~265~~-266 and 268 which have been made since the last preceding amendment or proposal to amend 35 Ill. Adm. Code 720 through ~~725~~-726 and 728, pursuant to Section 22.4(a) of the Environmental Protection Act.
- b) Any person may petition the Board to adopt amendments or additional regulations not identical in substance with federal regulations. Such proposal shall conform to 35 Ill. Adm. Code 102 and Title VII

and Section 22.4(b) or 22.4(c) of the Environmental Protection Act.

(Source: Amended at 15 Ill. Reg. , effective)

Section 720.122 Waste Delisting

- a) Any person seeking to exclude a waste from a particular generating facility from the lists in 35 Ill. Adm. Code 721.Subpart D may file a petition, as specified in subsection (n). The Board will grant the petition if:
- 1) The petitioner demonstrates that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or acute hazardous waste; and
 - 2) If the Board determines that there is a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, "Petitions to Delist -- A Guidance Manual", incorporated by reference in Section 720.111.A waste which is so excluded, however, still may be a hazardous waste by operation of 35 Ill. Adm. Code 721.Subpart C.
- b) Listed wastes and mixtures. A person may also petition the Board to exclude from 35 Ill. Adm. Code 721.103(a)(2)(B) or (C), a waste which is described in these Sections and is either a waste listed in 35 Ill. Adm. Code 721.Subpart D, or is derived from a waste listed in that Subpart. This exclusion may only be granted for a particular generating, storage, treatment or disposal facility. The petitioner shall make the same demonstration as required by subsection (a). Where the waste is a mixture of a solid waste and one or more listed hazardous wastes or is derived from one or more listed hazardous wastes, the demonstration must be made with respect to the waste mixture as a whole; analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste which is so excluded may still be a hazardous waste by operation of 35 Ill. Adm. Code 721.Subpart C.
- c) Ignitable, corrosive, reactive and toxicity characteristic wastes. If the waste is listed in codes "I", "C", "R" or "E" in 35 Ill. Adm. Code 721.Subpart D:
- 1) The petitioner shall demonstrate that the waste does not exhibit the relevant characteristic for which the waste was listed, as defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123 or 721.124, using any applicable methods prescribed in those Sections. The petitioner shall also show that the waste does not exhibit any of the other characteristics, defined in those

Sections, using any applicable methods prescribed in those Sections;

- 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, "Petitions to Delist -- A Guidance Manual", incorporated by reference in Section 720.111. A waste which is so excluded, however, may still be a hazardous waste by operation of 35 Ill. Adm. Code 721.Subpart C.

- d) Toxic waste. If the waste is listed in code "T" in 35 Ill. Adm. Code 721.Subpart D:
 - 1) The petitioner shall demonstrate that the waste:
 - A) Does not contain the constituent or constituents (as defined in 35 Ill. Adm. Code 721.Appendix G) that caused USEPA to list the waste, using the appropriate test methods prescribed in 35 Ill. Adm. Code 721.Appendix C; or
 - B) Although containing one or more of the hazardous constituents (as defined in 35 Ill. Adm. Code 721.Appendix G) that caused USEPA to list the waste, does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(3) when considering the factors used in 35 Ill. Adm. Code 721.111(a)(3)(A) through (K) under which the waste was listed as hazardous; and
 - 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, "Petitions to Delist -- A Guidance Manual", incorporated by reference in Section 720.111.
 - 3) The petitioner shall demonstrate that the waste does not exhibit any of the characteristics, defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123 or 721.124, using any applicable methods prescribed in those Sections.
 - 4) A waste which is so excluded, however, may still be a hazardous waste by operation of 35 Ill. Adm. Code 721.Subpart C.

- e) Acute hazardous waste. If the waste is listed with the code "H" in 35 Ill. Adm. Code 721.Subpart D:

- 1) The petitioner shall demonstrate that the waste does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(2); and
 - 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, "Petitions to Delist -- A Guidance Manual", incorporated by reference in Section 720.111.
 - 3) The petitioner shall demonstrate that the waste does not exhibit any of the characteristics, defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123 or 721.124, using any applicable methods prescribed in those Sections.
 - 4) A waste which is so excluded, however, may still be a hazardous waste by operation of 35 Ill. Adm. Code 721.Subpart C.
- h) Demonstration samples must consist of enough representative samples, but in no case less than four samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste.
- i) Each petition must include, in addition to the information required by subsection (n):
- 1) The name and address of the laboratory facility performing the sampling or tests of the waste;
 - 2) The names and qualifications of the persons sampling and testing the waste;
 - 3) The dates of sampling and testing;
 - 4) The location of the generating facility;
 - 5) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations or feed materials can or might produce a waste which is not covered by the demonstration;
 - 6) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;
 - 7) Pertinent data on and discussion of the factors delineated in the respective criterion for listing a hazardous waste, where the demonstration is based on the factors in 35 Ill. Adm. Code 721.111(a)(3);

- 8) A description of the methodologies and equipment used to obtain the representative samples;
- 9) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;
- 10) A description of the tests performed (including results);
- 11) The names and model numbers of the instruments used in performing the tests; and
- 12) The following statement signed by the generator or the generator's authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- j) After receiving a petition, the Board may request any additional information which the Board needs to evaluate the petition.
- k) An exclusion will only apply to the waste generated at the individual facility covered by the demonstration and will not apply to waste from any other facility.
- l) The Board will exclude only part of the waste for which the demonstration is submitted if the Board determines that variability of the waste justifies a partial exclusion.

BOARD NOTE: See "Petitions to Delist Hazardous Wastes -- A Guidance Manual", incorporated by reference in Section 720.111.

- a) m) -General delistings or d-Delisting of specific wastes from specific sources which have been adopted by USEPA may be proposed as -s-State regulations which are identical in substance pursuant to Section 720.120(a).
- b) n) Delistings which have not been adopted by USEPA may be proposed to the Board pursuant to Section 720.120(b); however, this does not infer that the Board has authority to adopt such delistings. The Board will determine whether it has authority to delist such wastes on a case-by-case basis, a petition for adjusted standard pursuant to 35 Ill. Adm. Code 106.Subpart G. The justification for the adjusted standard is as specified in subsections (a) et seq., as applicable to the waste in question.

- 1) In accordance with 35 Ill. Adm. Code 106.710, the petitioner shall serve copies of the petition, and any other documents filed with the Board, on USEPA at the following addresses:

USEPA
Office of Solid Waste and Emergency Response
Washington, D.C. 20460

USEPA, Region V
230 S. Dearborn Street
Chicago, IL 60604

- 2) The Board will mail copies of all opinions and orders to USEPA at the above addresses.
- 3) In conjunction with the normal updating of the RCRA regulations, the Board will maintain, in 35 Ill. Adm. Code 721.Appendix I, a listing of all adjusted standards granted by the Board.
- e q) The Agency may determine in a permit or a letter directed to a generator that, based on 35 Ill. Adm. Code 721, a waste from a particular source is not subject to these regulations. Such a finding is evidence against the Agency in any subsequent proceedings but shall not be conclusive with reference to other persons or the Board.
- d p) ~~-The Board incorporates by reference 40 CFR 260.22 (1988), as amended at 54 Fed. Reg. 27116, June 27, 1989. This Section incorporates no future amendments or editions. -Any petition to delist directed to the Board or request for determination directed to the Agency -shall include the information required by 40 CFR 260.22 and a showing that the delisting needs to be adopted as a part of the Illinois RCRA program.-must include a showing that the waste will be generated or managed in Illinois.~~
- e q) ~~-Waste delistings will not be approved if the result would make the Illinois program less than substantially equivalent to the federal.-The Board will not grant any petition which would render the Illinois RCRA program less stringent than if the decision were made by USEPA.~~
- f r) ~~Delistings -will- apply only within Illinois. Generators shall comply with 35 Ill. Adm. Code 722 for waste which is hazardous in any state to which it is to be transported.~~

(Source: Amended at 15 Ill. Reg. , effective)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
721.108	PCB Wastes Regulated under TSCA

SUBPART B: CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE AND FOR LISTING HAZARDOUS WASTES

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721.110	Criteria for Identifying the Characteristics of Hazardous Waste
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SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

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721.120	General
721.121	Characteristic of Ignitability
721.122	Characteristic of Corrosivity
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SUBPART D: LISTS OF HAZARDOUS WASTE

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721.130	General
721.131	Hazardous Wastes From Nonspecific Sources
721.132	Hazardous Waste from Specific Sources
721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container Residues and Spill Residues Thereof
Appendix A	Representative Sampling Methods
Appendix B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)
Appendix C	Chemical Analysis Test Methods
Table A	Analytical Characteristics of Organic Chemicals (Repealed)
Table B	Analytical Characteristics of Inorganic Species (Repealed)
Table C	Sample Preparation/Sample Introduction Techniques (Repealed)
Appendix G	Basis for Listing Hazardous Wastes
Appendix H	Hazardous Constituents
Appendix I	Wastes Excluded under Section 720.120 and 720.122
Table A	Wastes Excluded from Non-Specific Sources
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Table C	Wastes Excluded From Commercial Chemical Products, Off-

- Specification Species, Container Residues, and Soil Residues Thereof
- Appendix J Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans
- Appendix Z Table to Section 721.102

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 PCB 247, at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9, at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. , effective .

SUBPART B: CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE AND FOR LISTING HAZARDOUS WASTE

Section 721.110 Criteria for Identifying the Characteristics of Hazardous Waste

~~The basis of the hazardous waste characteristics is given at 40 CFR Section 261.10. The characteristics are found at Section 721.120 et seq.~~

- a) USEPA identifies and defines a characteristic of hazardous waste in Subpart C only upon determining that:
 - 1) A solid waste which exhibits the characteristic may:
 - A) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
 - B) Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed of or otherwise managed; and

2) The characteristic can be:

- A) Measured by an available standardized test method which is reasonable within the capability of generators of solid waste or private sector laboratories which are available to serve generators of solid waste; or
- B) Reasonably detected by generators of solid waste through their knowledge of their waste.

b) Delisting procedures are contained in 35 Ill. Adm. Code 720.122.

(Source: Amended at 15 Ill. Reg. , effective)

Section 721.111 Criteria for Listing Hazardous Waste

a) ~~-USEPA's criteria for listing hazardous waste are given at 40 CFR Section 261.11.~~ -USEPA lists a solid waste as a hazardous waste only upon determining that the solid waste meets one of the following criteria:

1) It exhibits any of the characteristics of hazardous waste identified in Subpart C; or

b 2) ~~"P" list:~~ Acute hazardous wastes are listed in Section 721.133(e). ~~Acute hazardous wastes are those which have been found to be fatal. Acute toxic wastes are those which have-~~ Acute hazardous waste. It has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity (rat) of less than 50 mg/kg, an inhalation LC 50 toxicity (rat) of less than 2 mg/L, or a dermal LD 50 toxicity (rabbit) of less than 200 mg/kg or is otherwise capable of causing or significantly contributing to an increase in serious irreversible or incapacitating reversible, illness.

BOARD NOTE: -(-Waste listed in accordance with these criteria -will be-are designated Acute Hazardous Waste-)-.

3) Toxic waste. It contains any of the toxic constituents listed in Appendix H and, after considering any of the following factors, USEPA concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:

BOARD NOTE: Substances are listed in Appendix H only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms.

A) The nature of the toxicity presented by the constituent.

B) The concentration of the constituent in the waste.

- C) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in subsection (a)(3)(G).
- D) The persistence of the constituent or any toxic degradation product of the constituent.
- E) The potential for the constituent or any toxic degradation product of the constituent to degrade into nonharmful constituents and the rate of degradation.
- F) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems.
- G) The plausible types of improper management to which the waste could be subjected.
- H) The quantities of the waste generated at individual generation sites or on a regional or national basis.
- I) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of the wastes containing the constituent.
- J) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent.
- K) Such other factors as may be appropriate.

BOARD NOTE: Wastes listed in accordance with these criteria are designated toxic wastes.

- b) USEPA may list classes or types of solid waste as hazardous waste if USEPA has reason to believe that individual wastes, within the class or type of waste, typically or frequently are hazardous under the definition of hazardous waste found in Section 1004(5) of the Resource Conservation and Recovery Act (42 USC 6901 et seq.)
- c) -USEPA's criteria for listing hazardous waste are given at 40 CFR Section 261.11. -USEPA will use the criteria for listing specified in this Section to establish the exclusion limits referred to in Section 721.105(c).

(Source: Amended at 15 Ill. Reg. , effective)