

ILLINOIS POLLUTION CONTROL BOARD
June 11, 1986

IN THE MATTER OF:)
)
HAZARDOUS WASTE PROHIBITIONS) R 86-9
)

PROPOSED RULE. By the Board.

PROPOSED OPINION AND ORDER (by J. D. Dumelle);

This docket was established by Order dated February 26, 1986, in order to consider rules implementing Section 39(h) of the Environmental Protection Act (Act) which prohibits the deposit of all hazardous wastestreams in a permitted hazardous waste site commencing January 1, 1987, "unless specific authorization is obtained from the Environmental Protection Agency (Agency) by the generator and the disposal site owner and operator." Such authorization is to be granted only "after the generator has reasonably demonstrated that, considering technological feasibility and economic reasonableness, the hazardous waste cannot be recycled for reuse, nor incinerated, or chemically, physically or biologically treated so as to neutralize the hazardous waste and render it nonhazardous." In that Order, the Board also stated its intention to conduct inquiry hearings regarding such rules and whether the Board should exercise its authority under Section 22(g) of the Act to prohibit the disposal of additional categories of hazardous waste. Finally, the Board invited the submission of proposals addressing these issues. However, no such proposals have been submitted.

Given the short time period remaining before the Section 39(h) prohibition commences and the lack of any proposals submitted, the Board has concluded that it would be more appropriate to proceed with merit hearings on a Board-generated proposal. The Board has, therefore, prepared a proposal and will proceed with merit hearings in the near future.

There are numerous questions which arise regarding the implementation of Section 39(h), some of which are expressly covered by the proposal. However, even where express rules have been proposed, in making this proposal the Board in no way intends to indicate that it has determined that those issues should be resolved in the manner proposed. For example, the essence of this proceeding is Section 729.122 which defines economic reasonableness in terms of the ratio of the costs of land disposal versus other waste management alternatives. However, the Board has not proposed a specific ratio. Rather

that has been left open to be determined after hearings, Furthermore, the Board recognizes that the establishment of such a ratio may not be the best method of determining economic reasonableness. It might be possible, for example, to establish a simple dollar amount per unit of waste to be disposed such that costs greater than that amount would be considered unreasonable. This would clearly simplify the economic determination and probably should be considered.

Further, in some areas which might appropriately be regulated, the Board has made no proposal. That should not be taken as indicating anything more than the simple fact that they are not being proposed at this time. For example, it may well be appropriate for the Board to exercise its Section 22(g) authority to prohibit land disposal of certain wastestreams or to allow such disposal only when certain technical standards are met. Such a mechanism has been used in the liquid hazardous waste rules and has been proposed, in general terms, here for electroplating wastes and electric arc furnace dust, but not for others such as pickle liquor sludge which should perhaps be treated similarly. Such rules appear to be an appropriate mechanism for establishing a consistent relationship between Sections 39(h) and 22(g): i.e. the Board can make a determination pursuant to Section 22(g) with respect to a particular wastestream which dictates the Agency's economic reasonableness decision under Section 39(h).

A section by section analysis follows.

Section 703.142

This section creates a RCRA permit by rule for persons who certify that they have to construct a treatment unit to get a wastestream authorization. Permits are required for treatment units unless they are "elementary neutralization units" or "totally enclosed treatment facilities" as defined in Sections 702.110 and 720.110. Interim status would not generally be available for new units. Unlike interim status, the owner or operator would have to file a Part B application for the new unit. The Agency could terminate the permit by rule at any time by denying the application, or by issuing a permit. The operator takes the risk that the Agency will deny the permit or issue it with conditions which could cause expensive modifications to the unit.

Generators may have to build new treatment units either to produce a residual which meets a technical standard, or to show that they are doing all that is economically reasonable and technologically feasible by way of treating waste before a residual is disposed of. The obvious purpose of Section 39(h) is to encourage generators to treat, reuse or recycle waste, not to put them out of business. However, there are estimates that it

would take up to three years for the Agency to issue a RCRA permit. This is not fast enough to allow construction by January 1, 1987, for any onsite treatment.

Such a permit by rule constitutes an amendment to the State's RCRA program, and as such must be approved by USEPA. The Board recognizes that creating such a permit by rule may not be viewed as consistent with the federal RCRA program. The Board requests comment on its authority to adopt such a rule and welcomes alternate proposals to allow timely construction of new treatment units which may be necessitated by the Section 39(h) prohibition.

Section 709.102

All definitions have been set out in full without incorporation from Part 729. Most of these definitions come from the liquid hazardous waste rules adopted in R83-28, with some changes to reflect the more general nature of this proposal.

The definition of "original generator" has been modified to provide that a person who combines waste from several generators becomes an "original generator." This relates to the definition of "wastestream" and to Section 709.110(b)(2). The purpose is to remove small generators from the wastestream authorization process if they use commercial off-site treatment. They will be authorized by way of the off-site facility's authorization to dispose of residuals.

The definition of "residual" has been removed from the liquid hazardous waste rules and made to apply to all types of hazardous waste.

"Treater" has been moved from the liquid hazardous waste rules. The final provision, that the treater cannot be an original generator, has been dropped to be consistent with changes to that definition discussed above.

A sentence has been added to "wastestream." This relates to the changes to "original generator," noted above, and to Section 709.110(b)(2). The new language provides that for purposes of determining whether a wastestream authorization is required, individual wastestreams cease to exist when they are combined, and that the person who mixed the wastes becomes a new "original generator." The purpose is to exclude from the wastestream authorization process small generators who use commercial off-site treatment which involves mixing the waste with waste from other generators. However, this concept in no way changes the determination of whether the wastestreams, either before or after such mixing, are hazardous wastes.

The process for treating the waste will almost always have a residual. The off-site treater, or storer, will have to have a RCRA permit. The Agency will control the bulking of these wastes through the treater's wastestream authorization and RCRA permit. If the Agency determines that the operator is bulking wastes in a manner which restricts management options, it should deny the authorization, thereby forcing the actual generator to make a separate application for authorization. In this way the Agency will be able to get back to small generators if it needs to, but will not be forced to review applications from each generator using commercial off-site treatment.

Section 709.110

This Section defines "land disposal unit," a new term which will be the starting point for stating the scope of the wastestream authorization requirement and the various landfilling restrictions in Parts 709 and 729. As proposed, "land disposal unit" includes: landfills, together with surface impoundments, piles and land treatment units unless the operator demonstrates that they really are for storage or treatment. "Land disposal unit" specifically excludes legitimate treatment or storage units, permitted discharges to sewers or surface waters and underground injection.

Section 709.110(b)(2) contains a specific exclusion for off-site treatment or storage units which bulk waste. This is consistent with the definitions of "original generator" and "wastestream" discussed above. Treaters and storers which meet this paragraph will usually also fit into paragraph (b)(1). However, this exclusion is separately stated because generators who ship to this type of facility will be exempt from the wastestream authorization requirement since the wastestream will cease to exist prior to the creation of a residual.

The definition of "land disposal unit" is important to establish a common thread through the general hazardous waste ban and the liquid hazardous waste and halogenated solvents bans adopted in R83-28 and R81-25. The scope of these rules is complicated by the fact that they were adopted at different times pursuant to different authorities. The halogenated solvent rules were adopted pursuant to Section 22(g) of the Act, which refers to "sanitary landfills." The liquids ban, in Section 22.6, refers to "landfills," which it defines to exclude surface impoundments, land treatment units and injection wells. The general hazardous waste ban, in Section 39(h), refers to deposit in a "permitted hazardous waste site," but requires an authorization for the "disposal site owner." Fortunately, there are factors which bring the scope of these rules closer together than they at first seem.

First, the Section 39(h) authorization requirement applies to all hazardous waste. The halogenated solvent and liquid hazardous waste rules apply to subsets of "hazardous waste." Therefore, the Agency can apply the halogenated solvent and liquid hazardous waste rules by way of the general waste authorization. There is no need therefore for a separate liquid hazardous waste authorization, the scope of which would require definition.

Second, the Board has already interpreted the scope of the halogenated solvent rules in a manner which is consistent with the definition of "land disposal unit" discussed above. Although Section 22(g) refers to "sanitary landfills," the Board has interpreted this to include RCRA permitted facilities. The Board has also construed storage or treatment units to be landfills if wastes or residues are to remain after closure. The Board has identified deep well injection as an alternative disposal method in adopting the halogenated solvent rules, and provided that halogenated solvents could be placed in a land treatment unit if the operator made the treatment demonstration pursuant to Part 724.

The liquid hazardous waste rules pose more of a problem with respect to the exclusion of land treatment and surface impoundments. The statute appears to exclude these units regardless of whether they really are disposal units in which hazardous constituents will remain after closure. Under the proposal the Board would act under Section 22(g) to prohibit liquid hazardous waste from impoundments and land treatment units unless the operator demonstrates that he can remove wastes and residues on closure of an impoundment or that treatment is actually occurring in a land treatment unit. The exclusion of injection wells from the liquids ban is fully consistent with definition of "land disposal unit" as discussed above.

Underground injection has been excluded from the definition of "land disposal unit" for the following reasons. First, the statute is silent as to underground injection in connection with Section 39(h). On the other hand, the Act mandates that the Board adopt a UIC program specifically directed at underground injection of hazardous waste. (Sections 12(g), 13(d) and 39(e)). Also, the statute includes a moratorium on new wells, and requires a study and review of the program. (Sections 6.2 and 12.1). If the Board were to construe the ambiguous provisions of Section 39(h) otherwise, the result may be to give them a meaning which would render the specific provisions addressing underground injection largely moot.

Second, Section 39(h) was intended to protect groundwater supplies from contamination by leaking landfills and similar units. The UIC rules accomplish this purpose in that they specifically prohibit the movement of injection fluids into

underground sources of drinking water. Injection which would endanger underground sources of drinking water is prohibited regardless of the technical feasibility or economic reasonableness of alternatives. (Section 704.122). Class IV wells, which inject hazardous waste above or into underground sources of drinking water are also prohibited. (Section 704.124). The question of whether to allow underground injection is a matter of deciding whether the injection will be carried out in a manner which will protect drinking water sources. The UIC permit requirement and technical standards of Part 730 allow a better framework for this decision than Section 39(h).

Like underground injection, discharges to surface waters or sewers would be excluded from the wastestream authorization process if conducted in accordance with required permits. Surface discharges must be authorized by an NPDES permit. (Section 12(f) and 39(b) of the Act and Part 309) Discharges to sewers are presently regulated by local sewer systems. However, USEPA is in the process of promulgating nationwide pretreatment standards which will be implemented in Illinois in the near future.

Many industrial wastes include water. An important step in treatment is the removal of the water from the hazardous constituents so that the water can be discharged and the smaller volume of hazardous constituents properly managed. For generic hazardous wastes listed in Sections 721.131 or 721.132, removal of hazardous constituents, or characteristics, does not make the water non-hazardous under the regulatory definition. However, the wastewater discharge is excluded from the RCRA program, which instead focuses on the residuals from treatment. (Section 721.104).

It would be possible to construe discharges to surface waters or sewers as a form of hazardous waste disposal subject to the wastestream authorization process. However, the Act contains specific provisions governing wastewater discharges and their impact on water quality. (Sections 12 and 13 of the Act). The Board has adopted detailed regulations specifying treatment standards for industrial water pollutants, and water quality standards designed to protect the aquatic environment from these contaminants. (Sections 304.124 and 302.208). The effluent and water quality standards also apply to public treatment works, and the Board prohibits discharges to sewers which cause violations by public treatment works. (Section 307.105) The Board will not, for purposes of this proposal, construe the ambiguous language of Section 39(h) as overriding the specific provisions of the Act dealing with water pollution, which have been implemented with extensive regulations.

The Board realizes that this proposal may unduly restrict the scope of the Section 39(h) prohibition. It can be argued

that injection wells, discharges to sewage treatment plants and NPDES discharges, for example, may be intended to be within the scope of Section 39(h). The language of Section 22.8 regarding the definition of hazardous waste disposal sites may, for example, indicate broader coverage. The Board in no way intends to restrict the scope beyond the statutory mandate and invites comment specifically addressing this issue. Further, the Board, by proposing the rule in this form, does not mean to indicate any predisposition regarding scope.

Section 709.200

This Section states the requirement to obtain a wastestream authorization. Paragraph (a) paraphrases the language of Section 39(h). It applies to land disposal of untreated hazardous waste and residuals which are still hazardous waste. Paragraph (b) prohibits the deposit of treatment residuals without a wastestream authorization, whether the residual is still a hazardous waste or not. As it did in connection with the liquids ban in R83-28, the Board construes the authorization requirement as extending to treatment residuals. In establishing the wastestream authorization requirement the legislature intended to set up a mechanism for prior review of claims that wastes have been effectively treated comparable to the permit requirements for discharges to waters of the State or emissions to the atmosphere. Persons do not avoid these requirements by claiming to have adequately treated water or gasses prior to discharge or emission; nor should they be able to avoid the wastestream authorization requirement by claiming to have treated wastes. However, as it did in R83-28, the Board proposes the adoption technical standards for land disposal of residuals. The Agency would issue authorizations for residuals which met the technical standards without requiring the generator to make the difficult economic reasonableness and technological feasibility (ERTF) showing.

Section 709.201

The liquid hazardous waste authorization requirement has been modified to utilize the phrase "land disposal unit" defined above. The proposal is not intended to require that generators should obtain a second document for liquid hazardous wastes. Rather, as noted above, the liquids authorization is completely subsumed into the general authorization.

Section 709.202

This Section excludes the Agency, USEPA and their contractors from the wastestream authorization requirement when they are conducting site clean-ups pursuant to State or federal law. This has been proposed for several reasons. Site clean-ups involve fundamentally different considerations such that

application of the wastestream authorization process could lead to an increase in the amount of environmental damage, contrary to the intent of the statute.

A current generator of waste has various options to manage waste, including process changes which would stop the production of a waste for which an authorization cannot be issued. In a site clean-up process changes are not possible with respect to waste which has already been improperly managed. Further, in a clean-up environmental damage is already occurring, and clean-up options include partial, temporary measures designed to minimize this damage. These would be totally unacceptable with respect to current waste. Adding a level of approval to the clean-up process by way of a wastestream authorization, would increase the environmental damage during the approval process. Foreclosing temporary land disposal options could prevent such options as capping an area of contaminated soil pending an ultimate clean up plan, increasing the environmental damage pending the ultimate plan. Additionally, the CERCLA and State superfund processes were specifically designed to deal with these questions. They include a system by which sites and clean-up options are ranked against each other to assure an efficient allocation of public money. Such comparative considerations would be absent from the wastestream authorization process.

Section 709.301

This Section which was adopted in connection with the liquid hazardous waste rules, specifies the contents of the application which would become the general wastestream application form. Paragraph (m), which was specific to liquids, has been moved to Section 709.311.

Section 709.310

Any person seeking a wastestream authorization would complete the general application form and provide a narrative description of how the specific regulations would be met. Everyone would have to provide information under either Section 709.310(a) or (b). They would either have to make the ERTF showing or show that they meet one of the standards for treatment residuals.

Section 709.311

Generators of liquid hazardous wastes would have to make a narrative showing that they either meet the ERTF standard or Section 22.6 of the Act, or that they meet one of the standards for liquid hazardous waste treatment residuals. Note that this would be cumulative with the showing under Section 709.310.

Section 709.312

Generators would also have to review the other limitations on land disposal, including USEPA rules, the Illinois RCRA rules in Parts 724 and 725 and the halogenated solvents rules in Part 729. If they are subject to any of these, they would have to provide a showing of compliance by way of narrative description.

Section 709.400

This Section contains the general standard for issuance of a wastestream authorization: the Agency issues the authorization if the generator either makes the ERTF showing, or demonstrates that he has a treatment residual which meets one of the standards for residuals. The residuals showing for general hazardous waste involves four steps: that the waste falls under a standard; that it will be land disposed in accordance with any limitations specified with the standard; that it meets the standard; and the absence of other limitations. Other limitations would include the liquids ban, if the waste is a liquid or a residual from the treatment of a liquid; the halogenated solvents ban, if the waste includes halogenated compounds; the Board's RCRA rules; and future USEPA land disposal bans.

Section 709.401

The standard for issuance for liquid hazardous waste has been reworded to make it read more like Section 709.400. Paragraph (c) has been moved to Section 709.402.

Section 709.402

If the Agency decides that a waste is not subject to the wastestream authorization process, it can either: deny the wastestream authorization or, upon the request of the generator, issue an authorization with the negative determination. This would make it easier for the generator to get land disposal facilities to accept the waste. The Agency might find that a waste was not subject to the process if it found that it was not a "wastestream," not a "hazardous waste," or a CERCLA waste.

Section 709.510

Conditions are allowed either under Sections 22.6 or 39(h) of the Act, which are similarly worded. The specific reference to the standards for liquid hazardous waste has been replaced with a general reference to Part 729, which would contain several sets of standards under the proposal.

Section 709.520

Paragraph (c), which was adopted in R83-28, required the addition of absorbents as required by the RCRA rules to any actual liquids authorized under the ERTF showing. This has become misleading now that the RCRA rules are moving away from allowing land disposal of absorbed wastes. Paragraph (c) would be replaced with Section 709.312(b), which requires the generator to demonstrate compliance with the RCRA rules in the application, and Section 709.510, which allows conditions necessary to assure compliance with Board rules.

Section 729.100

This Section was adopted and amended in R81-25 and R83-28. The language mainly comes from the halogenated solvents proposal with modifications to accommodate the liquids ban. Paragraph (b) defined "sanitary landfill," the term used in Section 22(g) of the Act. This definition was overridden by the definition of "landfill" used in Subpart C in connection with the liquids ban. For the reasons noted above in connection with Section 709.110, the proposal replaces the term "sanitary landfill" with "land disposal unit." The changes to this Section reflect that change.

Section 729.103

The proposal adds a list of definitions which apply to all of Part 729. These are mainly drawn from the liquid hazardous waste definitions. The modifications are the same as was discussed in connection with the Part 709 definitions.

Section 729.110

This Section is the hazardous waste restriction. Paragraph (a) paraphrases Section 39(h) of the Act, the ERTF showing. Paragraph (b) allows the land disposal of residuals from the treatment of hazardous waste which meet technical standards adopted by the Board. The ERTF showing must be made for land disposal of untreated hazardous waste, treated hazardous waste which does not meet a standard for residuals and treated hazardous waste for which no standard has been promulgated. Sections 729.120 et seq. include definitions which spell out the ERTF showing in greater detail.

There are two sources of residuals standards which operate to bypass Section 729.110(a): generic standards follow in Section 729.111 and Section 729.112, while standards for specific types of waste are in Subpart D. The standards for residuals from the treatment of liquid hazardous waste bypass Section 729.310(a), but not Section 729.110(a). Under Section 729.110(b)(4) the generator must show compliance with the liquid

hazardous waste rules and the standards for halogenated solvents, in order to get the general waste authorization. Section 729.110(c) provides that the general hazardous waste ban applies to all types of land disposal units.

Section 729.111

As noted in connection with Section 709.200, the proposal interprets Section 39(h) as including residuals from the treatment of hazardous waste. If a waste is hazardous only because it exhibits one of the characteristics of hazardous waste listed in 35 Ill. Adm. Code 721. Subpart C, it is possible to treat the waste so that it is no longer hazardous. This Section allows the Agency to issue an authorization for land disposal of such a residual on a showing that the residual is not hazardous.

Section 729.112

35 Ill. Adm. Code 721.131 and 721.132 contain generic hazardous waste listings. All wastes produced by the industries and processes are by definition hazardous, regardless of characteristics of the wastes. Under current interpretation of the RCRA rules, residuals from the treatment of generic hazardous wastes remain hazardous regardless of characteristics unless the residual is "delisted" by regulatory action. Section 729.112 allows land disposal of such a waste if the generator demonstrates that the residual does not have any of the characteristics of hazardous waste and does not contain any hazardous constituents which would otherwise render the waste hazardous.

A residual which is authorized pursuant to Section 729.112 is still a hazardous waste, but can be managed in a permitted hazardous waste land disposal unit. On the other hand, if the generator had the treatment residual delisted by regulatory action, the residual could be authorized pursuant to Section 729.111, and could go to a non-hazardous waste management site.

Paragraph (a)(2) cautions the generator that a RCRA permit is generally required for treatment of hazardous waste. A generator claiming to have a residual which can be placed in a land disposal unit under this Section who does not have a RCRA permit should be prepared to document the reason for his exemption. This paragraph also references the definitions of "elementary neutralization unit" and "totally enclosed treatment facility," two important exclusions available to generators.

Section 729.120

The following Sections define terms used in Section 39(h) of the Act. To make the ERTF showing, the generator demonstrates

that "considering technological feasibility and economic reasonableness the waste cannot be reasonably recycled for reuse, nor incinerated or chemically, physically or biologically treated so as to neutralize the hazardous waste and render it nonhazardous." This and the following Sections set up a comparison between two waste management schemes, referred to as the "baseline management option" and the "waste management alternative." In a simple case this could be a comparison between landfilling the waste or treating it so that no residual remains. However, many wastes normally receive some form of treatment before they are landfilled; and, most treatment schemes will result in the land disposal of some residual.

Section 729.120 defines the "baseline management option." The generator must provide for the ultimate disposal of all components of the waste. The Agency would be able to deny the authorization for failure to make the ERTF showing if the generator omitted costs from the baseline, or cut costs by failing to comply with all regulations. For obvious reasons, the generator does not need to show compliance with the general waste ban when applying for an ERTF exception to that ban. However, the generator does have to show compliance with the liquids ban, unless he is seeking to make the ERTF showing with respect to the liquids ban also. In either case, the generator must show compliance with the RCRA and halogenated solvents bans.

In that most generators will be managing their waste in the cheapest way that is legal, the baseline case will usually be what they are actually doing. However, the definition allows the Agency to reject any illegal baselines, and does not penalize generators who are already treating waste beyond what is minimally required. Paragraph (b) specifically authorizes generators to use cheaper baselines than they are actually using for their waste. Note, however, that what they are actually using would have to be addressed as a waste management alternative.

Section 729.121

This Section defines "waste management alternative." To make the ERTF showing, the generator posits a "waste management alternative," which he then attempts to show is not technologically feasible or economically reasonable. The Agency can deny the wastestream authorization if it finds either that the generator failed to show that the alternative was not technologically feasible or economically reasonable, or that there is some better alternative which the generator has not addressed. A "better" alternative is one which, based on such information as the Agency possesses, and which is not contradicted by the application, appears to be technologically feasible and economically reasonable. The generator would then have the opportunity to refile the application if the generator

sought to demonstrate that the alternative suggested by the Agency was not technologically feasible or economically reasonable.

A "waste management alternative" must include a consideration of each of the following elements: process substitution, waste minimization, recycling, treatment and disposal of the residual, and should specify the fate of the residuals from any treatment.

Process substitution and waste minimization are not mentioned in Section 39(h). However, the RCRA rules as proposed in R86-1 will require generators to certify that they are minimizing hazardous waste production. Under the proposal the Agency will be able to deny an authorization if it can suggest a way to substitute a process or otherwise minimize waste production in a manner which appears to be economically reasonable and technologically feasible.

Section 729.122

A waste management alternative is economically reasonable if it costs less than some multiple of the cost of the baseline management option disposal of the waste. Section 39(h) was clearly intended to establish a bias against land disposal in favor of treatment or other alternatives. Therefore, a waste management alternative is not economically unreasonable merely because it costs slightly more than the baseline option. However, the Board is not prepared at this time to suggest an appropriate ratio. That will be left to be determined after hearing, if this option is adopted.

This standard is based strictly on a comparison of costs of the baseline case versus alternatives. Profitability of a given company is not a factor. A major purpose of environmental standards is to require a minimum performance from all companies, thereby removing the incentive to compete by minimizing costs to control pollution. Allowing unprofitable companies to meet reduced standards for land disposal would reduce their costs and allow them to undersell companies which act to protect the environment.

The generator must address waste management alternatives involving both on-site and off-site treatment. Costs per unit volume to treat wastes by constructing units on-site are apt to increase with decreasing volumes of waste. Forcing all generators to present costs for both options assures that everyone is evaluated according to the more efficient mode in their circumstances. Paragraph (c) establishes a pecking order for bases for costs estimates. The generator must use the highest basis listed, or show that higher bases are not available to him. The highest bases are actual contracts to manage the

waste or to construct on-site units. These may be conditioned on the outcome of the authorization application. The next highest bases are offers to manage the waste and estimates taken from plans to construct on-site treatment. A person using these would have to explain why he has not contracted at these prices. The lowest bases are industry averages and estimates prepared by the generator in the absence of contracts, offers or plans.

The generator must include transportation costs to the nearest land disposal unit and treatment unit. It would be unfair to allow transportation costs on one side of the ratio and not the other. Also, economic reasonableness has a geographic factor: if off-site capacity is available near a generator treatment is more reasonable. This factors in by way of the transportation costs.

If the Agency believes that a waste management alternative is economically unreasonable because of temporary factors, it should condition the authorization so it will expire at such time as the Agency expects the temporary factors to change. Regional availability of treatment capacity is a temporary factor, as are high costs due to an imbalance in supply and demand for local treatment capacity. The Agency should reevaluate the economic reasonability when additional capacity becomes available. Other temporary factors which influence economic reasonableness include variable demand for a recycled product and other seasonal cost factors, such a a treatment alternative which only works during the summer. The Agency should again condition the authorization so that it can review the economic reasonableness as such factors change.

Section 729.123

This section defines "technological feasibility" for purposes of application of the ERTF standards of Sections 22.6 and 39(h) of the Act. Something is "technologically feasible" if it has been demonstrated on at least a pilot scale. The rules do not force generators to undertake such trials. However, vendors of processes and commercial off-site treaters have an economic incentive to conduct tests and make the results known to the Agency: once they demonstrate a process on a waste on a pilot scale generators will be forced to use the process, assuming it is economically reasonable.

Paragraph (b) provides that waste management alternatives which would result in as much or more risk to public health and the environment as the baseline option are not technologically feasible. It would not further the purposes of Sections 22.6 and 39(h) to require the generator to provide such treatment. The generator has the burden of showing that something is not "technologically feasible." If the result is not obvious, the

generator would have to provide a detailed risk analysis comparing the waste management alternative with land disposal.

If the Agency determines that a waste management alternative is not technologically feasible because of temporary factors, it should provide for expiration of the authorization at such time as it expects the waste management alternative to become feasible. For example, if it knows of a plan to test a process, it should require a review of authorizations after the test.

Section 729.124

A generator can demonstrate that a waste cannot be "recycled for reuse" by listing it on the Illinois Industrial Materials Exchange Service or in a widely circulated trade journal. If no one makes an offer for the waste, it cannot be recycled. If the generator does not wish to list the waste, he must otherwise document that the waste cannot be recycled.

Generators are liable if a recycler mishandles their waste. Paragraph (b) provides that generators cannot simply refuse offers to recycle and then claim that the waste cannot be recycled. However, the generator may not accept offers to recycle if he has proof that the recycler will not manage the waste in accordance with regulations and standard industry practices.

Section 729.200

This Section states the scope of the halogenated solvents ban. As discussed above, this will be phrased in terms of "land disposal unit." This should involve no change in the scope of the halogenated solvent rules.

Section 729.204

The special rule on land treatment demonstrations for halogenated solvents has been replaced with a general provision contained in the definition of "land disposal unit." If the operator demonstrates that hazardous constituents are "completely degraded, transformed or immobilized in the treatment zone" pursuant to Section 724.372, the land treatment unit is not a "land disposal unit" and waste going to it is not subject to the wastestream authorization process.

Section 729.220 - Section 729.242

These Sections have been modified to make them consistent with the proposal.

Section 729.301

Most of these definitions have been moved to Sections 709.102 and Section 729.103 so that they will apply to the entire Parts instead of just the liquid hazardous waste provisions. As is discussed in connection with Section 709.110, the proposal equates "landfill" as used in the liquid hazardous waste rules with "land disposal unit." The Board would exercise Section 22(g) authority to expand the scope of the liquids ban beyond that specified in Section 22.6 of the Act to include disposal in impoundments which will be closed as landfills or land treatment units which have not been shown effective.

Section 729.310

The liquid hazardous waste restriction has been restated in terms of "land disposal unit" defined in Section 709.110. The restriction applies to all land disposal units, although this could be modified through paragraph (d).

Section 729.311 and Section 729.312

The prohibitions on non-hazardous liquids in hazardous waste units and on use of biodegradable absorbents have also been restated in terms of "land disposal unit."

Section 729.400

This new Subpart contains technical standards for land disposal of residuals from certain industries or treatment processes. The generator can show compliance with these instead of making the ERTF showing. The generator could also show compliance with one of the generic residuals standards which are contained in Subpart A. Persons who meet one of these standards must also show compliance with the liquids ban and with the halogenated solvents ban.

Section 729.410

This Section would contain the standard for residuals from treatment of electroplating wastes, which is taken to include hazardous wastes F006 through F009 as defined in Section 721.131. They are listed because of cadmium, hexavalent chromium and cyanide. A technical standard for these wastes may be appropriate because they are produced in large volume by a large number of individual generators. Since these are generic hazardous wastes, treatment residuals are hazardous regardless of characteristics. However, for authorization of land disposal a generator could demonstrate the absence of hazardous characteristics under Section 729.112, instead of proceeding under this Section.

The Board is unaware, and requests comments upon, whether there is a simple technical standard which could be used to discern whether a residual produced from treatment of electroplating wastes is the product of the best technologically feasible, economically reasonable waste management alternative which is available.

Section 729.411

The Section would set a standard for land disposal of residuals from the treatment of hazardous waste K061, electric arc furnace dust. It is listed because of the presence of hexavalent cadmium, chromium and lead. This waste has been noted for possible inclusion because it is a high volume waste although it is produced by a only small number of generators. Because these are generic hazardous wastes, treatment residuals are hazardous regardless of characteristics. However, for authorization of land disposal a generator could demonstrate the absence of hazardous characteristics under Section 729.112, instead of proceeding under this Section.

Again, comments upon whether there is a simple technical standard which could be used to discern whether a residual produced from treatment of electric arc furnace dust is the product of the best technologically feasible, economically reasonable waste management alternative which is available. Participants are welcome to offer suggestions at the hearings.

The Board would also welcome additional suggestions of wastestreams which would be appropriate topics for technical standards, and suggestions as to what these standards should be. Further, the Board welcomes alternative proposals and any testimony, comments, or exhibits pertaining to the issues in this proceeding.

ORDER

The Board hereby authorizes hearings on the following draft proposal.

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 703
RCRA PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
703.100	Scope and Relation to Other Parts
703.101	Purpose
703.110	References

SUBPART B: PROHIBITIONS

Section	
703.120	Prohibitions in General
703.121	RCRA Permits
703.122	Specific Inclusions in Permit Program
703.123	Specific Exclusions from Permit Program
703.124	Discharges of Hazardous Waste
703.125	Reapplications
703.126	Initial Applications
703.127	Federal Permits (Repealed)

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

Section	
703.140	Purpose and Scope
703.141	Permits by Rule
703.142	<u>Permits for Treatment to Meet Land Disposal Ban</u>
703.150	Application by Existing HWM Facilities and Interim Status Qualifications
703.151	Application by New HWM Facilities
703.152	Amended Part A Application
703.153	Qualifying for Interim Status
703.154	Prohibitions During Interim Status
703.155	Changes During Interim Status
703.156	Interim Status Standards
703.157	Grounds for Termination of Interim Status
703.158	Permits for Less Than an Entire Facility

SUBPART D: APPLICATIONS

Section	
703.180	Applications in General
703.181	Contents of Part A
703.182	Contents of Part B
703.183	General Information
703.184	Facility Location Information
703.185	Ground-water Protection Information
703.186	Exposure Information
703.200	Specific Information
703.201	Containers
703.202	Tanks
703.203	Surface Impoundments
703.204	Waste Piles
703.205	Incinerators
703.206	Land Treatment
703.207	Landfills

SUBPART E: SHORT TERM AND PHASED PERMITS

Section	
703.221	Emergency Permits
703.222	Incinerator Conditions Prior to Trial Burn
703.223	Incinerator Conditions During Trial Burn
703.224	Incinerator Conditions After Trial Burn
703.225	Trial Burns for Existing Incinerators
703.230	Land Treatment Demonstration
703.231	Research, Development and Demonstration Permits

SUBPART F: PERMIT CONDITIONS

Section	
703.241	Establishing Permit Conditions
703.242	Noncompliance Pursuant to Emergency Permit
703.243	Monitoring
703.244	Notice of Planned Changes
703.245	Release or Discharge Reports
703.246	Reporting Requirements

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-23 at 10 Ill. Reg. , effective ; amended in R86-1 at 10 Ill. Reg. , effective ; amended in R86-9 at 10 Ill. Reg. , effective

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

Section 703.142 Permits for Treatment to Meet Land Disposal Bans

- a) A person shall be deemed to have a RCRA permit by rule for any treatment unit which must be constructed in order to obtain a wastestream authorization pursuant to 35 Ill. Adm. Code 709 and 729, provided:
 - 1) The owner or operator files a Part A and Part B application for the unit pursuant to this Part; and,
 - 2) The owner or operator certifies that construction of the unit is necessary to obtain a wastestream authorization pursuant to 35 Ill. Adm. Code 709 and 729; and,
 - 3) The generator of the waste and the owner or operator apply for a wastestream authorization for all wastes treated in the unit.
- b) A permit by rule under this Section shall last until the Agency either issues or denies a RCRA permit for the unit; or,

(Source: Added at 10 Ill. Reg. , effective)

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER b: PERMITS

PART 709
 WASTESTREAM AUTHORIZATIONS

SUBPART A: GENERAL PROVISIONS

Section	
<u>709.100</u>	<u>Purpose, Scope and Applicability</u>
<u>709.102</u>	<u>Definitions</u>
<u>709.103</u>	<u>Deemed-issued Wastestream Authorizations</u>
<u>709.104</u>	<u>Expiration of Supplemental Permits</u>
<u>709.105</u>	<u>Severability</u>
<u>709.110</u>	<u>Land Disposal Unit</u>

SUBPART B: PROHIBITIONS

Section	
<u>709.200</u>	<u>Hazardous Waste Authorization</u>
<u>709.201</u>	<u>Liquid Hazardous Waste Authorization</u>

709.202 Exemptions

SUBPART C: APPLICATIONS

Section
709.301 General Application for Liquid Hazardous Waste
709.302 Signatures
709.310 General Hazardous Waste Application
709.311 Liquid Hazardous Waste Application
709.312 Other Prohibitions

SUBPART D: REVIEW OF WASTESTREAMS

Section
709.400 General Standard for Issuance
709.401 Standard for Issuance for Liquid Hazardous Waste
709.402 Negative Finding

SUBPART E: CONDITIONS OF
WASTESTREAM AUTHORIZATIONS

Section
709.501 Duration
709.510 General Conditions
709.520 Authorized Methods of Disposal

SUBPART F: MODIFICATION,
REVOCATION AND APPEAL

Section
709.601 Modification
709.602 Revocation
709.603 Appeal

AUTHORITY: Implementing Sections 22.6 and 39(h) of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 1022.6 and 1039(h)) and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1027).

SOURCE: Emergency rule adopted in R83-28A at 8 Ill. Reg. 12678, effective July 5, 1984, for a maximum of 150 days; adopted in R83-28B at 9 Ill. Reg. 730, effective January 3, 1985; amended in R83-28C at 10 Ill. Reg. 4875, effective March 7, 1986; amended in R86-9 at 10 Ill. Reg. , effective

NOTE: Capitalization is used to indicate that the language quotes or paraphrases a statute.

SUBPART A: GENERAL PROVISIONS

Section 709.100 Purpose, Scope and Applicability

- a) This Part provides for the issuance by the Environmental Protection Agency of wastestream authorizations required by Sections 22.6 and 39(h) of the Environmental Protection Act (Act).
- b) This Part applies to generators of hazardous waste as specified in Subpart B.
- c) 35 Ill. Adm. Code 729 contains technical standards which are to be used to determine in what manner a waste can be managed.

(Source: Added at 10 Ill. Reg. , effective)

Section 709.102 Definitions

The following definitions of 35 Ill. Adm. Code 729.301 apply to this Part, in addition to the following terms:

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 1001).

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Generator" is as defined in 35 Ill. Adm. Code 720.110.

"Hazardous Waste" is a hazardous waste as defined at 35 Ill. Adm. Code 721.103.

"Hazardous wastestream" means a "wastestream" which includes a "hazardous waste."

"Land disposal unit" is as defined in Section 709.110.

"Liquid hazardous waste" is as defined in 35 Ill. Adm. Code 729.301.

"Original generator" is a person who generates hazardous waste as a result of an activity or production process other than the treatment of hazardous waste, or who combines wastestreams for storage or treatment pursuant to a permit and wastestream authorization.

"Residual" is any material other than a gas which remains after, or is generated by, the treatment of a hazardous waste. A "residual" may itself be a "hazardous waste."

"Treater" is a person who engages in treatment of hazardous waste. A "treater" may be a "generator."

"Treatment" is as defined in 35 Ill. Adm. Code 720.110.

"Wastestream" means a "solid waste" as defined in 35 Ill. Adm. Code 721, which is routinely or periodically produced by a certain generator as a result of a certain activity, production process or treatment process. The Agency may issue multiple wastestream authorizations for a single wastestream, each identifying a different disposer or disposal method. The Agency may allow the combination of wastestreams into a single wastestream if such combination does not limit the possibilities for treatment, recycling or disposal of the wastes. For purposes of determining whether a wastestream authorization is required, when wastestreams are combined the constituent wastestreams cease to exist, and the person who combined the wastestreams becomes the original generator of a new wastestream. The fact that wastestreams are presumed to cease to exist for purposes of this determination in no way affects the determination whether a particular waste is hazardous pursuant to 35 Ill. Adm. Code 721.103

(Source: Amended at 10 Ill. Reg. , effective)

Section 709.110 Land Disposal Unit

- a) As used in this Part, a "land disposal unit" includes any "hazardous waste management unit" as defined in 35 Ill. Adm Code 720.110, unless that unit is specifically excluded under subsection (b). Without limiting the generality of the preceding sentence, the following are examples of units which are land disposal units:
- 1) A landfill;
 - 2) A surface impoundment or waste pile, unless the owner or operator demonstrates, by way of a closure plan pursuant to 35 Ill. Adm. Code 724.212 or 725.212, that all wastes and waste residues will be removed from the unit prior to or upon closure;
 - 3) A land treatment unit, unless the owner or operator demonstrates, pursuant to 35 Ill. Adm. Code 724.372, that the hazardous constituents in the waste can be completely degraded, transformed or immobilized in the treatment zone.
- b) Specific exclusions. The following hazardous waste management units are not land disposal units:

- 1) A storage or treatment unit, including an incinerator, for which the owner or operator demonstrates, through a closure plan pursuant to 35 Ill. Adm. Code 724.212 or 725.212, that all wastes and waste residues will be removed from the unit prior to or upon closure;
- 2) A storage or treatment unit:
 - A) Which is not located at the facility at which the waste is generated; and,
 - B) Of which the generator is not the owner or operator; and,
 - C) At which the waste is combined with wastes from other generators for treatment or transportation to a treatment unit; and,
 - D) For which the owner or operator has obtained a RCRA permit or interim status pursuant to 35 Ill. Adm. Code 703; and,
 - E) For which the owner or operator has obtained a wastestream authorization for disposal of residuals from treatment of the combined waste.
- 3) A discharge of water from a treatment unit to a publicly owned treatment works (POTW), provided the discharge is in compliance with applicable pretreatment requirements imposed by the POTW.
- 4) A discharge of water from a treatment unit to waters of the State, provided such discharge is authorized by an NPDES permit issued pursuant to Section 39(b) of the Act and 35 Ill. Adm. Code 309.
- 5) An underground injection well for which the Agency has issued a UIC permit pursuant to Section 39(e) of the Act and 35 Ill. Adm. Code 704.

(Source: Added at 10 Ill. Reg. , effective)

SUBPART B: PROHIBITIONS

Section 709.200 Hazardous Waste Authorization

- a) Hazardous wastes. NO HAZARDOUS WASTESTREAM MAY BE DEPOSITED IN ANY PERMITTED LAND DISPOSAL UNIT OF A TYPE

IDENTIFIED IN SUBSECTION (c) UNLESS A WASTESTREAM AUTHORIZATION HAS BEEN ISSUED FOR THE DEPOSIT OF THAT WASTESTREAM (Section 39(h) of the Act).

- b) Residuals. No person shall engage in the treatment of a hazardous wastestream and cause, threaten or allow the deposit of any residual from such treatment in any land disposal unit of a type identified in Subsection (c) unless the Agency has issued a wastestream authorization for that wastestream.
- c) This Section applies to all land disposal units as defined in Section 709.110.

(Source: Added at 10 Ill. Reg. , effective)

Section 709.201 Liquid Hazardous Waste Authorization

- a) Liquids: NO PERSON SHALL CAUSE, THREATEN OR ALLOW THE DISPOSAL IN ANY LANDFILL LAND DISPOSAL UNIT OF A TYPE IDENTIFIED IN SUBSECTION (c) OF ANY LIQUID HAZARDOUS WASTE UNLESS THE AGENCY HAS ISSUED A WASTESTREAM AUTHORIZATION FOR THAT WASTESTREAM. (Section 22.6(a) of the Act).
- b) Residuals: No person shall engage in the treatment of a liquid hazardous waste and cause, threaten or allow the disposal in any ~~landfill~~ land disposal unit of a type identified in subsection (c) of any residual from such treatment unless the Agency has issued a wastestream authorization for that wastestream.
- c) This Section applies to all types of land disposal units identified in Section 709.110.

(Source: Amended at 10 Ill. Reg. , effective)

Section 709.202 Exemptions

The wastestream authorization requirement does not apply to:

- a) The Agency or its contractors with respect to management of wastes generated as a result of remedial action pursuant to Section 22.1 of the Act; and,
- b) The Agency, the United States Environmental Protection Agency or their contractors with respect to wastes generated as a result of remedial action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.).

(Source: Added at 10 Ill. Reg. , effective)

SUBPART C: APPLICATIONS

Section 709.301 General Application for Liquid Hazardous Waste

The Agency shall promulgate standardized application forms for ~~liquid~~ hazardous waste authorizations. Applications for ~~liquid~~ hazardous waste authorizations must be made on such forms after they become available. Until such time, applicants must provide the following minimal information:

- a) The name, address and phone number of the original generator;
- b) The original generator's United States Environmental Protection Agency (USEPA) identification number (35 Ill. Adm. Code 722.122) and Agency identification number;
- c) The name of the waste;
- d) The source of the waste;
- e) USEPA hazardous waste code(s) (35 Ill. Adm. Code 721);
- f) The name(s) and address(es) of any treater(s) of the waste;
- g) Each treater's USEPA identification number and Agency site number, if applicable;
- h) Whether any treater has a RCRA permit or interim status;
- i) A detailed chemical and physical analysis of a representative sample of the waste. At a minimum, this analysis must contain all of the information which must be known to treat, store or dispose of the waste in accordance with the wastestream authorization sought.
- j) The quantity or rate at which the waste is generated.
- k) A plan for sampling the waste by the original generator or treater (including frequency) to assure that the wastestream continues to conform to the analysis in the application;
- l) A description of any treatment processes;
- m) ~~Sufficient facts to show that the wastestream meets one of the standards for issuance of a wastestream authorization (Section 709.401);~~

Additional information specified in Sections 709.310 et seq. for the type of authorization requested;

- n) Identification of the disposal site or sites to which the applicant proposes to send the waste;
- o) Wastestream number of any supplemental wastestream permit issued for the waste pursuant to 35 Ill. Adm. Code 807.210, and the expiration date of any such permit.
- p) Such additional information as the generator believes is necessary to show that the wastestream may be disposed in accordance with the Act and Board regulations.

(Source: Amended at 10 Ill. Reg. , effective)

Section 709.310 General Hazardous Waste Application

- a) If the applicant seeks an authorization to deposit a hazardous wastestream in a permitted land disposal unit, the applicant must provide, by way of narrative description and supporting evidence, proof that the waste meets the standard of Section 709.400(a) and 35 Ill. Adm. Code 729.110(a).
- b) If the applicant seeks to deposit a residual from the treatment of a hazardous wastestream in a land disposal unit the applicant may provide proof that the residual meets one of the standards of Section 709.400(b), and 35 Ill. Adm. Code 729.110(b), instead of proof pursuant to subsection (a).

(Source: Added at 10 Ill. Reg. , effective)

Section 709.311 Liquid Hazardous Waste Application

- a) If an applicant seeks an authorization to deposit a liquid hazardous waste in a land disposal unit, the applicant must provide, by way of narrative description and supporting evidence, proof that the waste meets the standard of Section 709.401(a) and 35 Ill. Adm. Code 729.310(a).
- b) If an applicant seeks an authorization to deposit a residual from the treatment of a liquid hazardous waste in a land disposal unit, the applicant may provide proof that the residual meets one of the standards of Section 709.401(b) and 35 Ill. Adm. Code 729.310(b), instead of proof pursuant to subsection (a).

(Source: Added at 10 Ill. Reg. , effective)

Section 709.312 Other Prohibitions

The applicant must demonstrate that the waste is not subject to any additional regulations restricting the management of the waste in the manner proposed by the applicant. Specifically, the applicant must demonstrate:

- a) Compliance with rules promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).
- b) Compliance with 35 Ill. Adm. Code 724 and 725.
- c) Compliance with the halogenated solvents rules of 35 Ill. Adm. Code 729.Subpart B.

(Source: Added at 10 Ill. Reg. , effective)

SUBPART D: REVIEW OF WASTESTREAMS

Section 709.400 General Standard for Issuance

- a) THE AGENCY SHALL ISSUE A WASTESTREAM AUTHORIZATION FOR THE DISPOSAL OF A HAZARDOUS WASTESTREAM IN A PERMITTED LAND DISPOSAL UNIT ONLY AFTER THE GENERATOR HAS REASONABLY DEMONSTRATED THAT THE WASTESTREAM MEETS THE STANDARD OF 35 ILL. ADM. CODE 729.110(a), AND THAT LAND DISPOSAL IS NOT PROHIBITED OR LIMITED BY BOARD REGULATIONS. (Section 39(h) of the Act).
- b) Residuals. The Agency shall issue a wastestream authorization for the disposal of a residual from the treatment of hazardous waste if the original generator or treater demonstrates that the residual either meets the standard of subsection (a), or:
 - 1) Is a residual for which the Board has promulgated a technical standard under 35 Ill. Adm. Code 729; and,
 - 2) Will be managed as provided in that technical standard; and,
 - 3) Meets the technical standard; and,
 - 4) Is not otherwise restricted.

(Source: Added at 10 Ill. Reg. , effective)

Section 709.401 Standard for Issuance for Liquid Hazardous Waste

- a) Liquids: THE AGENCY SHALL ISSUE A WASTESTREAM AUTHORIZATION FOR THE LAND DISPOSAL OF A LIQUID HAZARDOUS WASTE ONLY AFTER THE GENERATOR HAS REASONABLY DEMONSTRATED THAT THE WASTESTREAM MEETS THE STANDARD OF 35 ILL. ADM. CODE 729.310(a), AND THAT LAND DISPOSAL IS NOT PROHIBITED OR LIMITED BY BOARD REGULATIONS. (Section 22.6(c) of the Act).
- b) Residuals: The Agency shall issue a wastestream authorization for the land disposal of the residual from the treatment of a liquid hazardous waste if ~~and only if~~ the original generator or treater demonstrates that the residual either meets the standard of subsection (a) or meets one of the standards of 35 Ill. Adm. Code 729.310(b), and that land disposal is not prohibited or limited by Board regulations.
- e) Negative Finding: For wastes which are neither a liquid hazardous waste nor a residual from the treatment of a liquid hazardous waste, the Agency may issue a wastestream authorization upon a finding that the wastestream is not subject to any other landfilling prohibition.

(Source: Amended at 10 Ill. Reg. , effective)

Section 709.402 Negative Finding

If, after reviewing an application for a wastestream authorization, the Agency determines that the waste is not subject to the requirement to obtain a wastestream authorization, the Agency shall, upon request by the applicant, issue a wastestream authorization including such determination. Such an authorization shall include such conditions as are necessary to ensure that the person continues to be not subject to the wastestream authorization requirement, and defining the methods of managing the waste so as to avoid the requirement.

(Source: Added at 10 Ill. Reg. , effective)

SUBPART E: CONDITIONS OF WASTESTREAM AUTHORIZATIONS

Section 709.510 General Conditions

IN GRANTING A WASTESTREAM AUTHORIZATION THE AGENCY MAY IMPOSE SUCH CONDITIONS AS MAY BE NECESSARY TO ACCOMPLISH THE PURPOSES OF THE ACT AND WHICH ARE CONSISTENT WITH BOARD REGULATIONS, including requirements for the periodic testing of the

wastestream to verify that it continues to meet one of the standards of 35 Ill. Adm. Code 729.310. (Section 22.6(c) and 39(h) of the Act).

(Source: Amended at 10 Ill. Reg. , effective)

Section 709.520 Authorized Methods of Disposal

- a) The Agency shall include conditions prohibiting methods of treatment or disposal which would result in violation of the Act or Board rules.
- b) The Agency shall include conditions authorizing disposal in accordance with the Act and Board regulations. Such conditions shall identify landfills authorized to receive the waste. Such identification shall be either by name of specific landfills, or by classification.
- e) The Agency shall require the addition of absorbent materials to liquid hazardous waste authorized pursuant to Section 709.401(a) in accordance with 35 Ill. Adm. Code 724.414 or 725.414.

(Source: Amended at 10 Ill. Reg. , effective)

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

PART 729

~~LANDFILLS:~~ PROHIBITED HAZARDOUS WASTES IN LAND DISPOSAL UNITS

SUBPART A: GENERAL HAZARDOUS WASTE RESTRICTION

Section	
729.100	Purpose, Scope and Applicability
729.101	Severability
729.102	Definitions
<u>729.110</u>	<u>Hazardous Waste Restriction</u>
<u>729.111</u>	<u>Nonhazardous Residuals</u>
<u>729.112</u>	<u>Residuals from Generic Hazardous Waste</u>
<u>729.120</u>	<u>Baseline Management Option</u>
<u>729.121</u>	<u>Waste Management Alternatives</u>
<u>729.122</u>	<u>Economic Reasonableness</u>
<u>729.123</u>	<u>Technical Feasibility</u>
<u>729.124</u>	<u>Recyclability</u>

SUBPART B: HALOGENATED SOLVENTS

Section	
729.200	Purpose, Scope and Applicability
729.201	No Circumvention
729.202	Incorporations by Reference
729.203	Waste Analysis Plan
729.204	Land Treatment Demonstration (Repealed)
729.205	Effect on Wastestream Authorizations and Supplemental Permits (Repealed)
729.220	Definitions
729.221	Halogenated Compound--Definition
729.222	Halogenated Solvent--Definition
729.223	Halogen Content Presumption
729.224	Partition Presumption
729.240	Non-aqueous Liquid Phases which are Halogenated Solvents
729.241	Aqueous Solutions of Halogenated Compounds
729.242	Solids Containing Halogenated Compounds
729.262	Recycling Residues
729.263	Small Quantity Generators

SUBPART C: LIQUID HAZARDOUS WASTES

Section	
729.301	Definitions
729.302	Waste Analysis Plan
729.303	Incorporations by Reference
729.310	Liquid Hazardous Waste Restriction
729.311	Prohibition of Non-hazardous Liquids in Hazardous Waste Landfills
729.312	Labpacks
729.313	Biodegradable Absorbents
729.320	Test for Liquids
729.321	Load-bearing Capacity Test

SUBPART D: RESIDUALS FROM TREATMENT OF WASTE PRODUCED FROM CERTAIN PROCESSES AND INDUSTRIES

<u>Section</u>	
<u>729.400</u>	<u>Purpose, Scope and Applicability</u>
<u>729.410</u>	<u>Electroplating Wastes</u>
<u>729.411</u>	<u>Electric Arc Furnace Dust</u>

AUTHORITY: Implementing Sections 22(g), 22.4(b), 22.6 and 39(h) of the Environmental Protection Act (111. Rev. Stat. 1985, ch. 111 1/2, pars 1022(g), 1022.4(b), 1022.6 and 1039(h)) and authorized by Sections 22.6 and 27 of the Environmental Protection Act (111. Rev. Stat. 1985, ch. 111 1/2, pars. 1022.6 and 1027.

SOURCE: Emergency rule adopted in R83-28A at 8 Ill. Reg. 12668, effective July 5, 1984 for a maximum of 150 days; adopted in R81-25 at 8 Ill. Reg. 24124, effective December 4, 1984; amended in R83-28B at 9 Ill. Reg. 718, effective January 3, 1985; amended in R83-28C at 10 Ill. Reg. 4864, effective March 7, 1986; amended in R86-9 at 10 Ill. Reg. , effective

NOTE: Capitalization is used to indicate that the language quotes or paraphrases a statute.

SUBPART A: GENERAL

Section 729.100 Purpose, Scope and Applicability

- a) The purpose of this Part is to prohibit the disposal of certain hazardous wastes in landfills land disposal units. "Hazardous waste" is as defined in 35 Ill. Adm. Code 721. "Land Disposal Unit" is defined in 35 Ill. Adm. Code 709.110. 35 Ill. Adm. Code 709 requires wastestream authorizations for certain wastestreams.
- b) Unless otherwise indicated, the requirements of this Part apply to all landfills, or "sanitary landfills" as defined in the Environmental Protection Act (Act) (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 1001 et seq.). Landfills include both non-hazardous and hazardous waste landfills permitted under Sections 21(d) or 21(f) of the Act. Unless otherwise indicated, "landfills" includes surface impoundments and waste piles in which waste residues are expected to remain after closure, and land application.
- eb) The provisions of 35 Ill. Adm. Code 721.105 notwithstanding, the landfilling prohibitions of this Part apply to all persons, including small quantity generators, unless otherwise indicated in this Part.
- dc) The landfilling prohibitions of this Part do not apply to residues of hazardous waste in containers, or empty liners removed from containers, as defined in 35 Ill. Adm. Code 721.107.
- ed) The provisions of this Part are intended to supplement the requirements of 35 Ill. Adm. Code 722, 723, 724, 725, 807 and 809. No provisions of those regulations should be read as permitting the disposal of any hazardous waste in any manner prohibited under this Part.
- fe) The provisions of this Part are intended to proscribe any conduct by generators, transporters, treaters or

disposers of waste which results in placement of a prohibited waste in a ~~landfill~~ land disposal unit.

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.103 Definitions

The following definitions apply to this Part, except as modified in individual Subparts:

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 1001)

"Agency" means the Illinois Environmental Protection Agency

"Board" means the Illinois Pollution Control Board

"Generator" is as defined in 35 Ill. Adm. Code 720.110

"Hazardous Waste" is a hazardous waste as defined at 35 Ill. Adm. Code 721.103

"Hazardous wastestream" means a "wastestream" which includes a "hazardous waste"

"Land disposal unit" is as defined in 35 Ill. Adm. Code 709.110.

"Liquid hazardous waste" is as defined in Section 729.301.

"Original generator" is a person who generates hazardous waste as a result of an activity or production process other than the treatment of hazardous waste, or who combines wastestreams for storage or treatment pursuant to a permit and wastestream authorization.

"Residual" is any material other than a gas which remains after, or is generated by, the treatment of a hazardous waste. A "residual" may itself be a "hazardous waste".

"Treater" is a person who engages in treatment of hazardous waste. A "treater" may be a "generator".

"Treatment" is as defined in 35 Ill. Adm. Code 720.110.

"Wastestream" means a "solid waste" as defined in 35 Ill. Adm. Code 721, which is routinely or periodically produced by a certain generator as a result of a certain activity, production process or treatment process. The Agency may issue multiple wastestream authorizations for a single wastestream, each identifying a different disposer or

disposal method. The Agency may allow the combination of wastestreams into a single wastestream if such combination does not limit the possibilities for treatment, recycling or disposal of the wastes. For purposes of determining whether a wastestream authorization is required, when wastestreams are combined the constituent wastestreams cease to exist, and the person who combined the wastestreams becomes the original generator of a new wastestream. The fact that wastestreams are presumed to cease to exist for purposes of this determination in no way affects the determination whether a particular waste is hazardous pursuant to 35 Ill. Adm. Code 721.103.

(Source: Added at 10 Ill. Reg. , effective)

Section 729.110 Hazardous Waste Restriction

- a) Except as provided in subsection (b), NO PERSON SHALL DEPOSIT A HAZARDOUS WASTESTREAM IN A PERMITTED HAZARDOUS WASTE LAND DISPOSAL UNIT OF A TYPE IDENTIFIED IN SUBSECTION (c) UNLESS THE GENERATOR HAS REASONABLY DEMONSTRATED THAT, CONSIDERING TECHNOLOGICAL FEASIBILITY AND ECONOMIC REASONABLENESS, THE HAZARDOUS WASTE CANNOT BE REASONABLY RECYCLED FOR REUSE, NOR INCINERATED OR CHEMICALLY, PHYSICALLY OR BIOLOGICALLY TREATED SO AS TO NEUTRALIZE THE HAZARDOUS WASTE AND RENDER IT NONHAZARDOUS. (Section 39(h) of the Act.)
- b) Residuals. Paragraph (a) notwithstanding, a person may deposit a residual from the treatment of a hazardous waste in a land disposal unit if:
- 1) The Board has adopted a technical standard in this Subpart or Subpart D which is applicable to the waste;
 - 2) The person will manage the waste in a manner authorized by the technical standard;
 - 3) The waste meets the technical standard; and,
 - 4) The waste is not otherwise restricted or prohibited.
- c) This Section applies to all types of land disposal units identified in 35 Ill. Adm. Code 709.110

(Source: Added at 10 Ill. Reg. , effective)

Section 729.111 Nonhazardous Residuals

A person may deposit a residual from the treatment of a hazardous waste in a land disposal unit if the person demonstrates that the residual is not a hazardous waste.

(Source: Added at 10 Ill. Reg. , effective)

Section 729.112 Residuals from Generic Hazardous Waste

a) This Section applies to residuals from the treatment of generic hazardous waste.

1) A "generic hazardous waste" is a hazardous waste which is listed in 35 Ill. Adm. Code 721.131 or 721.132.

2) To conduct "treatment" of hazardous waste, a person must have a RCRA permit or interim status pursuant to 35 Ill. Adm. Code 703, except insofar as treatment without a permit is authorized by 35 Ill. Adm. Code 702-726. For example, no permit is required for treatment in an "elementary neutralization unit" or a "totally enclosed treatment facility," as defined in 35 Ill. Adm. Code 702.110 and 720.110.

b) A person may deposit a residual from the treatment of a generic hazardous waste in a land disposal unit if the person demonstrates that the waste has none of the characteristics of hazardous waste listed in 35 Ill. Adm. Code 721. Subpart C, and none of the hazardous constituents for which the waste was listed as indicated in 35 Ill. Adm. Code 721. App. G, and does not contain any of the hazardous constituents listed in 35 Ill. Adm. Code 721. App. H

(Source: Added at 10 Ill. Reg. , effective)

Section 729.120 Baseline Management Option

a) In making an "economically reasonable and technologically feasible" (ERTF) showing pursuant to Section 22.6 or 39(h) of the Act, or Section 729.110 or 729.310, the generator must propose a baseline management option for purposes of comparison with the waste management alternatives described in Section 729.121. The baseline management option must provide for the ultimate disposal of all components of the waste in accordance with all applicable regulations, except for this Subpart, or Subpart C in the case of an ERTF showing pursuant to Subpart C.

- b) The generator may propose a cheaper baseline management option than it is actually using, provided the option meets the conditions of subsection (a).

(Source: Added at 10 Ill. Reg., , effective)

Section 729.121 Waste Management Alternatives

- a) In making an ERTF showing pursuant to Section 22.6 or 39(h) of the Act, or Section 729.110 or 729.310, the generator must propose one or more waste management alternatives.
- b) Each waste management alternative must address each of the following elements:
- 1) Process substitution;
 - 2) Waste minimization;
 - 3) Recycling or reuse;
 - 4) Treatment, including incineration;
 - 5) Land disposal of a residual.
- c) In denying a wastestream authorization application based on an ERTF showing, the Agency must:
- 1) Determine that the generator has failed to make the ERTF showing with respect to the waste management alternative or alternatives proposed by the generator; or,
 - 2) Specify a better waste management alternative for which the generator has not made the ERTF showing; or,
 - 3) Determine that the baseline management option proposed by the generator does not provide for the ultimate disposal of all components of the waste in accordance with all applicable regulations.
- d) As used in subsection (b)(2) a "better waste management alternative" is one which, based on information in the application and such other information as may be available to the Agency, appears to be economically reasonable and technologically feasible.

(Source: Added at 10 Ill. Reg. , effective)

Section 729.122 Economic Reasonableness

This Section defines "economically reasonable" for purposes of application of Sections 22.6 and 39(h) of the Act and Sections 729.110 and 729.310.

- a) A waste management alternative is economically reasonable if its cost is less than (a ratio to be determined following hearings) times the cost of the baseline management option.
- b) Profitability of a generator is not a factor in determining economic reasonableness. Generators may request variances pursuant to 35 Ill. Adm. Code 104 based on arbitrary or unreasonable hardship.
- c) Costs must be based on the following, to the extent available, in the order listed, with the first items listed to be used unless the generator demonstrates that they are not available:
 - 1) Contracts to accept the waste for management;
 - 2) Contracts to construct waste management units;
 - 3) Offers to accept waste for management;
 - 4) Estimates based on plans to construct waste management units;
 - 5) Industry averages;
 - 6) Estimates prepared by the generator.
- d) Costs must include the cost to transport the waste to the nearest available treatment or land disposal unit, including units located outside the State.
- e) Generators must address both the cost of conducting treatment at the site of generation and off-site treatment.
- f) If a waste management alternative is not economically reasonable because of temporary factors, the Agency shall provide that the authorization will expire at such time as the Agency expects the temporary factor to change. Temporary factors include, but are not limited to, the following:

- 1) High costs due to lack of capacity;
- 2) High transportation costs due to lack of local capacity;
- 3) Variable cost factors due to fluctuating demand for a product which is resold;
- 4) Seasonal cost factors;

(Source: Added at 10 Ill. Reg. , effective)

Section 729.123 Technical Feasibility

This Section defines "technologically feasible" for purposes of application of Sections 22.6 and 39(h) of the Act and Sections 729.110 and 729.310.

- a) A waste management alternative is technologically feasible if the alternative has been demonstrated on a pilot scale or in an actual operation.
- b) A waste management alternative is not technologically feasible if it would result in as much or more risk to public health and the environment when compared to the baseline management option.
- c) If the Agency determines that an alternative is not technologically feasible, it shall provide that the authorization will expire at a time at which a technologically feasible alternative is likely to exist.

(Source: Added at 10 Ill. Reg. , effective)

Section 729.124 Recyclability

This Section defines "cannot be recycled for reuse" for purposes of application of Sections 22.6 and 39(h) of the Act and Sections 729.110 and 729.310. A waste cannot be recycled for reuse:

- a) If it has been listed on a waste exchange service or advertised in a trade journal which is widely circulated among potential users of waste materials for a period of 120 days, and either:
 - 1) No one has made an offer to take the waste for reuse or recycling; or,
 - 2) An offer has been made for reuse or recycling, but the generator submits proof that the waste will not be managed in accordance with applicable regulations and standard industry practices.

- b) The operator otherwise demonstrates that the waste cannot be recycled for reuse.

(Source: Added at 10 Ill. Reg. , effective)

SUBPART B: HALOGENATED SOLVENTS

Section 729.200 Purpose, Scope and Applicability

- a) This Subpart prohibits the landfilling deposit in a land disposal unit of wastes containing halogenated compounds. Rules are included to differentiate these from other wastes.
- b) Halogenated compounds are a class of organic solvents. As a class halogenated compounds are not very soluble in water; therefore, in a complex system, they will be found in a non-aqueous phase associated with any other organic solvents present. This Subpart assumes that any halogenated compounds present will be more concentrated in any non-aqueous liquid phase. The halogen concentration in the non-aqueous liquid phase is used to determine whether the phase should be regulated as an halogenated solvent or as an organic solvent.
- c) Organic solvent phases, whether they include halogenated compounds or not, pose a threat to the impermeability of clay and synthetic ~~landfill~~ liners.
- d) Aqueous solutions of halogenated compounds placed directly into the ~~landfill~~ land disposal unit, could damage synthetic liners and move into groundwater.
- e) Because of their differing impacts on ~~landfills~~ land disposal units, the Board intends to encourage the separation prior to disposal of phases in multiphase wastes, and intends to encourage the separation of wastestreams during generation to avoid the formation of multiphase wastes.

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.303 Waste Analysis Plan

The owner or operator of a land disposal unit ~~landfill~~ disposing of hazardous waste must, within thirty days after the effective date of this section, develop and follow a written waste analysis plan which describes the procedures which the owner or operator will carry out to ensure that the facility complies with the prohibition stated in this Subpart. The owner or operator must keep this plan at the facility. A copy of the plan shall be

submitted to the Agency within thirty days after the effective date of this section.

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.204 Land Treatment Demonstration (Repealed)

This Subpart shall not bar the issuance of a RCRA permit pursuant to Section 21(f) of the Act and 35 Ill. Adm. Code 703 for land treatment of hazardous waste if the owner or operator demonstrates, pursuant to 35 Ill. Adm. Code 703.206, 703.230 and 724.372, that any halogenated compounds in the waste will be completely degraded, transformed or immobilized in the treatment zone.

(Source: Repealed at 10 Ill. Reg. , effective)

Section 729.220 Definitions

In addition to the definitions of Section 729.102, as used in this Subpart, terms have the following meanings:

Aqueous phase: A "phase" in which water is the solvent, constituting more than 500 g/kg.

Component: An element or compound present in a "phase" or "system".

Emulsion: A "system", including two or more liquid "phases", which is not separated into layers. For purposes of this Subpart, an emulsion which does not form layers within one hour is one phase.

Liquid: A waste, or part of a waste, which yields any fluid when subjected to the paint filter test described in Section 729.320.

Non-aqueous phase: A "phase" which contains 500 g/kg or less of water.

One-phase system: A "system" with one and only one "phase".

Phase: A physically distinct portion of a dispersion or solution which at least in principle could be mechanically separated from the remainder of the material. For purposes of this Subpart, a container is not a phase, nor is a vapor above a waste. Emulsions and suspensions are a single phase if they do not form layers within one hour.

Solid: A waste, or part of a waste, which contains no free liquid as determined from the paint filter test described in Section 729.320.

Suspension: A "system", including a "solid" phase and a "liquid" phase, which is not separated into layers. For purposes of this Subpart, a suspension which does not form layers within one hour is one phase.

System: A single isolated "phase" or a set of two or more "phases" which are in physical contact.

TOX test: Either of the tests for total organic halogen incorporated by reference in Section 729.202, ASTM D2361-66 (Reapproved 1978) or ASTM E442-74 (Reapproved 1981).

Two-phase system: A "system" with two "phases".

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.240 Non-aqueous Liquid Phases which are Halogenated Solvents

No person shall cause or allow any hazardous waste containing a non-aqueous liquid phase which is an halogenated solvent to be placed in any land disposal unit ~~landfill~~.

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.241 Aqueous Solutions of Halogenated Compounds

- a) No person shall cause or allow to be placed in any land disposal unit ~~landfill~~ any hazardous waste containing an aqueous liquid phase containing more than 14,000 mg of halogenated compounds in any 1 kg.
- b) An aqueous liquid phase containing more than 10,000 mg of total organic halogen, as measured by the TOX test, in any 1 kg is assumed to contain more than 14,000 mg of halogenated compounds per kilogram, unless the contrary is shown by a more definitive test whose validity is demonstrated to the Agency.

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.242 Solids Containing Halogenated Compounds

- a) No person shall cause or allow any hazardous waste which is a solid to be placed in any land disposal unit ~~landfill~~ if the waste forms a non-aqueous liquid phase which is an halogenated solvent when a representative sample of the waste is mixed with water.
- b) The prohibition of paragraph (a) shall become effective on July 1, 1986.

(Source: Amended at 10 Ill. Reg. , effective)

SUBPART C: LIQUID HAZARDOUS WASTES

Section 729.301 Definitions

The following definitions apply to this Subpart, in addition to the definitions of Section 729.103:

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111 1/2- par. 1001 et seq.)

"Agency" means the Illinois Environmental Protection Agency

"Board" means the Illinois Pollution Control Board

"Generator" is as defined in 35 Ill. Adm. Code 720.110

"Hazardous Waste" is a hazardous waste as defined at 35 Ill. Adm. Code 721.103

"Labwaste" is a liquid hazardous waste generated by an activity in a laboratory engaged in teaching, testing or research, in a quantity totaling less than 100 kg per month for the activity. Wastes which are periodically produced as a result of a production process are not "labwaste".

"LANDFILL" IS A DISPOSAL UNIT OR PART OF A FACILITY WHERE HAZARDOUS WASTE IS PLACED IN OR ON LAND AND WHICH IS NOT A LAND TREATMENT UNIT, A SURFACE IMPOUNDMENT OR AN UNDERGROUND INJECTION WELL. (Section 22.6(d) of the Act). As used in this Subpart, a "landfill" is a "land disposal unit" as defined 35 Ill. Adm. Code 709.110.

"Liquid hazardous waste" is a hazardous waste which yields any fluid when subjected to the test procedure described in Section 729.320.

"Non-periodic waste" is a liquid hazardous waste in a quantity of less than 100 kg which will not be generated again by that generator.

"Original generator" is a person who generates hazardous waste as a result of an activity or production process other than the treatment of hazardous waste.

"Residual" is any material other than a gas which remains after, or is generated by, the treatment of a liquid hazardous waste. A "residual" may itself be a "liquid hazardous waste".

"Treater" is a person who engages in treatment of hazardous waste. A "treater" may be a "generator", but may not be the "original generator".

"Treatment" is treatment as defined at 35 Ill. Adm. Code 720.110. 35 Ill. Adm. Code 703.123(h) and 724.101(g) (10) notwithstanding, as used in this Subpart, "treatment" specifically includes the addition of absorbent materials to a liquid hazardous waste or vice versa. Provided, however, that "treatment" shall not include those activities carried out to immediately contain or treat a spill of a liquid hazardous waste or a material which, when spilled, becomes a liquid hazardous waste, to the extent such treatment meets the exemption of 35 Ill. Adm. Code 724.101(g)(8) or 725.101(c)(11), whichever is applicable.

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.310 Liquid Hazardous Waste Restriction

- a) Liquids: NO PERSON SHALL CAUSE, THREATEN OR ALLOW THE DISPOSAL IN A LAND DISPOSAL UNIT OF A TYPE IDENTIFIED IN SUBSECTION (d) LANDFILL OF ANY LIQUID HAZARDOUS WASTE, UNLESS THE GENERATOR HAS DEMONSTRATED THAT, CONSIDERING CURRENT TECHNOLOGICAL FEASIBILITY AND ECONOMIC REASONABLENESS, THE HAZARDOUS WASTE CANNOT BE REASONABLY SOLIDIFIED, STABILIZED OR RECYCLED FOR REUSE, NOR INCINERATED OR CHEMICALLY, PHYSICALLY OR BIOLOGICALLY TREATED SO AS TO NEUTRALIZE THE HAZARDOUS WASTE AND RENDER IT NONHAZARDOUS. (Sections 22.6(a) and 22.6(c) of the Act)
- b) Residuals: No person shall engage in the treatment of a liquid hazardous waste and cause, threaten or allow the disposal in a land disposal unit of a type identified in subsection (d) landfill of a residual from such treatment unless the residual meets one of the following standards.
 - 1) Non-hazardous Residuals: The residual may be deposited in a land disposal unit landfilled if it no longer meets the definition of "hazardous waste".
 - 2) Liquid Removal: For wastes in which treatment is accomplished only through extraction, volatilization, evaporation, thermal destruction or other removal of liquids, the residual may be

deposited in a land disposal unit ~~landfilled~~ if it no longer meets the definition of "liquid hazardous waste".

3) Solidification: The residual may be deposited in a land disposal unit ~~landfilled~~ if it no longer meets the definition of "liquid hazardous waste" and possesses a load-bearing capacity of at least 2.0 tons per square foot as determined by application of the test procedure described in Section 729.321.

c) No person shall cause, threaten or allow the disposal in a land disposal unit of a type identified in subsection (d) ~~landfill~~ of a residual from the treatment of a liquid hazardous waste which does not meet one of the standards of paragraph (b), and for which the Agency has not issued a wastestream authorization pursuant to 35 Ill. Adm. Code 709.401(a). Reasonable reliance on a generator's description of the waste shall be a complete defense to violation of this paragraph.

d) This Section applies to all types of land disposal units identified in 35 Ill. Adm. Code 709.110.

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.311 Prohibition of Non-hazardous Liquids in Hazardous Waste Landfills

No person shall cause, threaten or allow the placement into any land disposal unit ~~a landfill~~ permitted to receive hazardous waste of any non-hazardous waste which yields any fluids when subjected to the test procedure described in Section 729.320.

(Source: Amended at 10 Ill. Reg. , effective)

Section 729.313 Biodegradable Absorbents

No person shall cause, threaten or allow the disposal in any land disposal unit ~~landfill~~ of any liquid hazardous waste containing an absorbent material which, because of microbial action, will degrade faster than the waste.

(Source: Amended at 10 Ill. Reg. , effective)

SUBPART D: RESIDUALS FROM TREATMENT OF WASTE FROM CERTAIN
PROCESSES AND INDUSTRIES

Section 729.400 Purpose, Scope and Applicability

- a) This Subpart contains technical standards allowing deposit in land disposal units of residuals from the treatment of hazardous wastes produced by certain processes or industries, which will be specified with each standard.
- b) As provided in Section 729.110(b), a generator may show compliance with these technical standards for residuals instead of making the "economically reasonable and technologically feasible" showing pursuant to Section 729.110(a).
- c) Subpart A contains general standards for land disposal of residuals which do not depend on the process or industry which produced the waste.
- d) Residuals from the treatment of liquid hazardous waste must also meet the standards of Subpart C. Residuals which contain halogenated compounds must also meet the standards of Subpart B.

(Source: Added at 10 Ill. Reg. , effective)

Section 729.410 Electroplating Wastes

- a) This Section applies to residuals from the treatment of hazardous waste numbers F006, F007, F008 and F009, as defined in 35 Ill. Adm. Code 721.131.
- b) Such residuals may be deposited in any type of land disposal unit if:
 - 1) (standards will be added following hearings)

(Source: Added at 10 Ill. Reg. , effective)

Section 729.411 Electric Arc Furnace Dust

- a) This Section applies to residuals from the treatment of hazardous waste number K061, as defined in 35 Ill. Adm. Code 721.132.
- b) Such residuals may be deposited in any type of land disposal unit if:
 - 1) (standards will be added following hearings)

(Source: Added at 10 Ill. Reg. , effective)


(Standards for additional types of residuals may be added following hearings.)

IT IS SO ORDERED.

Board Member B. Forcade dissented.

Board Member J. Theodore Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 11th day of June, 1986 by a vote of 4-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board