

ILLINOIS POLLUTION CONTROL BOARD

May 5, 1983

In the matter of:)
PROHIBITION OF LANDFILLING OF) R81-25
HALOGENATED SOLVENTS (CBE))

PROPOSED RULE. FIRST NOTICE
PROPOSED ORDER OF THE BOARD (by D. Anderson):

The Board hereby proposes to adopt 35 Ill. Adm. Code 729. This Proposed Order is supported by a Proposed Opinion adopted this same date. The Clerk is directed to file the proposed rule with the Secretary of State for publication in the Illinois Register. A copy of the text for publication will be attached to this Order. The record will remain open for public comment, by those who request to comment within 14 days of publication, for a period of 45 days after publication in the Illinois Register.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 5th day of May, 1983 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board

POLLUTION CONTROL BOARD

TEXT OF PROPOSED AMENDMENTS FOR CODIFICATION

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

SUBPART A: GENERAL

Section
729.101 Purpose, Scope and Applicability
729.102 Generator's Assertion of Exemption
729.103 Mitigation
729.104 Relationship to Wastestream Permits

SUBPART B: HALOGENATED SOLVENTS

Section
729.121 Landfilling Prohibited
729.122 Definition of Halogenated Solvent
729.123 Definition of Trace Levels
729.131 Burden of Proving Trace Levels
729.132 No Circumvention
729.141 Small Quantity Generators' Exemption
729.142 Residential Waste Exemption
729.143 Dry Cleaners' Exemption
729.144 Recycling Residues Exemption
729.151 Concentration Exemptions

AUTHORITY: Implementing Section 22(h) and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1022(h) and 1027).

SOURCE: Adopted at 7 Ill. Reg. _____, effective _____.

POLLUTION CONTROL BOARD

TEXT OF PROPOSED AMENDMENTS FOR CODIFICATION

SUBPART A: GENERAL

Section 729.101 Purpose, Scope and Applicability

- a) The purpose of this Part is to prohibit the disposal of certain hazardous wastes in landfills.
- b) The requirements of this Part apply to all landfills, or "sanitary landfills" as defined in the Environmental Protection Act (Act) (Ill. Rev. Stat. 1981, ch. 111 1/2, par. 1001). Landfills include both non-hazardous and hazardous waste landfills permitted under Sections 21(d) and 21(f) of the Act. Landfills include surface impoundments and waste piles in which waste residues are expected to remain after closure.
- c) 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.
- d) 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.
- e) The provisions of this Part are intended to supplement the requirements of Chapter 7: Solid Waste and 35 Ill. Adm. Code 724 and 725. No provision of those regulations should be read as permitting the disposal of any hazardous waste in any manner prohibited under this Part.
- f) The provisions of this Part are intended to proscribe any conduct by generators, transporters or disposers of waste which results in placement of a prohibited waste in a landfill.

Section 729.102 Generator's Assertion of Exemption

- a) A transporter or disposer of waste, other than the generator of the waste, may rely on a written statement by the generator, signed by the generator, identifying the waste or wastestream, acknowledging that he is the generator of the waste and asserting

POLLUTION CONTROL BOARD

TEXT OF PROPOSED AMENDMENTS FOR CODIFICATION

that the waste is not subject to this Part or is subject to an exemption and the basis for such claim.

- b) Such written statement may be introduced as evidence in any enforcement action. It shall be a complete defense by the person relying on such statement, unless it is shown that the person in fact knew, or reasonably should have known, based on knowledge within the person's possession, that the waste was subject to this Part or not subject to an exemption.

Section 729.103 Mitigation

- a) A person charged with violation of this Part may offer evidence that he did not know that the waste was prohibited under this Part and that he had adopted routine practices to prevent violation of this Part, such as employee training, posting of signs and random sampling of wastes. Such evidence shall not be a complete defense, but will be considered in mitigation of any penalty.
- b) Lack of knowledge that a waste is prohibited under this Part refers to a mistake as to the properties of the waste and not to lack of knowledge of the regulations.

Section 729.104 Relationship to Wastestream Permits

- a) This Part is intended to supplement requirements governing wastestream authorizations or supplemental permits issued by the Illinois Environmental Protection Agency (Agency) (Section 39(h) of the Act and Rule 210 of Chapter 7: Solid Waste).
- b) The Agency may not authorize any wastestream for disposal in a landfill if it has been prohibited under this Part.
- c) In reviewing a wastestream which is routinely generated, the Agency shall consider the average rate of generation, composition and concentrations, together with the expected range, in determining the applicability of this Part. The Agency shall authorize the

POLLUTION CONTROL BOARD

TEXT OF PROPOSED AMENDMENTS FOR CODIFICATION

wastestream if averages conform with this Part, and may specify maximum quantities, concentrations or other conditions necessary to assure long-term compliance with this Subpart. A waste authorized by the Agency after such review may be landfilled notwithstanding this Subpart, provided the waste conforms to the wastestream description in the authorization.

SUBPART B: HALOGENATED SOLVENTS

Section 729.121 Landfilling Prohibited

Except as otherwise provided in this Subpart, no person shall cause or allow the disposal in any landfill in Illinois of waste containing any halogenated solvent in excess of trace levels.

Section 729.122 Definition of Halogenated Solvent

As used in this Subpart, the term "halogenated solvent" shall mean any of the following chemicals:

B010	benzene, chloro-
B020	benzene, 1,2-dichloro-
B090	carbon tetrachloride
B030	chlorinated fluorocarbons
B040	ethane, 1,1,1-trichloro-
B050	ethane, 1,1,2-trichloro-1,2,2-trifluoro-
B060	ethene, tetrachloro-
B070	ethene, trichloro-
B070	ethinyl trichloride
B080	methane, dichloro-
B090	methane, tetrachloro-
B100	methane, trichlorofluoro-
B040	methyl chloroform
B080	methylene chloride
B080	methylene dichloride
B020	orthodichlorobenzene
B060	perchloroethylene
B010	phenyl chloride
B060	tetrachloroethylene
B070	trichloroethylene
B100	trichloromonofluoromethane

POLLUTION CONTROL BOARD

TEXT OF PROPOSED AMENDMENTS FOR CODIFICATION

Section 729.123 Definition of Trace Levels

As used in this Subpart, the term "trace levels" means more than 1 mg/kg halogenated solvents.

Section 729.131 Burden of Proving Trace Levels

- a) A person seeking to enforce this Subpart shall have the burden of showing that a waste contains halogenated solvents at more than trace levels in any sample, whether representative of the waste or not. The person against whom enforcement is sought shall then have the burden of showing that the waste was generated in a manner such that a generator exemption applies, that a concentration exemption applies or that any other exemption applies.
- b) In any permit application, if requested by the Agency, the applicant shall have the burden of showing either the absence of halogenated solvents at more than trace levels in a representative sample of the waste, or application of an exemption.

Section 729.132 No Circumvention

- a) No person shall cause or allow the mixing or dilution of halogenated solvents in order to evade the land-filling prohibition of Section 729.121.
- b) Concentrations shall be recomputed to correct for any mixing or dilution prohibited by paragraph (a).
- c) For purposes of determining quantity exemptions, any waste which is transferred prior to ultimate disposal shall be attributed to the last person who used the solvent.

Section 729.141 Small Quantity Generators' Exemption

This Subpart does not apply to any person who generates waste containing less than 1 kg of halogenated solvents per month, as determined by averaging over the current month and the preceding 11 months.

POLLUTION CONTROL BOARD

TEXT OF PROPOSED AMENDMENTS FOR CODIFICATION

Section 729.142 Residential Waste Exemption

This Subpart does not apply to waste generated from non-commercial activities at residences.

Section 729.143 Dry Cleaners' Exemption

- a) This Subpart does not apply to dry cleaners which generate less than 100 kg per month, averaged over the current month and the preceding 11 months, of spent halogenated solvent, distillation residues, filters and other waste containing halogenated solvents.
- b) This exemption shall terminate on July 1, 1985.

Section 729.144 Recycling Residues Exemption

- a) This Subpart does not apply to sludges and still bottoms produced from recycling of halogenated solvents in which at least 30% of the waste is recovered for reuse. Such wastes shall be disposed of as hazardous wastes, if they are such, as defined in 35 Ill. Adm. Code 721.
- b) This exemption shall terminate on July 1, 1985.

Section 729.151 Concentration Exemptions

- a) A waste which is a solid which meets the following criteria may be landfilled under this Subpart, provided:
 - 1) There is no free flowing liquid in the waste;
 - 2) If a sample of the waste is mixed with water, no non-aqueous liquid phase forms; and
 - 3) The waste contains less than 10,000 mg/kg halogenated solvents.

POLLUTION CONTROL BOARD

TEXT OF PROPOSED AMENDMENTS FOR CODIFICATION

- b) A waste which is a liquid which is a solution or a suspension of a solid in a solution may be landfilled under this Subpart, provided:
 - 1) The waste is more than 50% water and solids by weight;
 - 2) There is no non-aqueous liquid phase present in the waste; and
 - 3) The waste contains less than 100 mg/kg halogenated solvents.

- c) There are no concentration exemptions for the following wastes which are prohibited by Section 729.121 if halogenated solvents are present in more than trace levels:
 - 1) A solution which is 50% water or less by weight;
 - 2) A suspension which is 50% water and solids or less by weight;
 - 3) A liquid waste which includes any non-aqueous liquid phase;
 - 4) A solid waste which contains free liquid or which forms a non-aqueous liquid phase when mixed with water.

- d) Applicability of a concentration exemption must be shown by one or more representative samples.