

ILLINOIS POLLUTION CONTROL BOARD
October 23, 1986

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

EMERGENCY RULE.

OPINION AND ORDER OF THE BOARD (by J. D. Dumelle):

Docket R86-9 was established by Order of February 26, 1986, to consider the implementation of rules pursuant to Section 39(h) of the Illinois 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 [Illinois Environmental Protection] Agency by the generator and the disposal site owner and operator." On June 11, 1986, the Board proposed rules to implement that program. Four days of hearings were held to consider that proposal on August 13 and September 3 through 5, 1986. Several post-hearing comments were filed.

At hearing the Board raised the possibility of proceeding to an emergency rulemaking prior to adoption of final, permanent rules. On October 2, 1986, the Board adopted a proposed emergency rule for public comment. However, on October 6, 1986, the Board reconsidered that proposal and vacated the proposed opinion and order. On October 9, 1986, the Board once again proposed the adoption of emergency rules and opened a new docket, R86-9, Docket A, for that purpose.

This Opinion will not restate the matters addressed in the earlier opinions. Rather, this Opinion will simply respond to the comments which have been made concerning the proposed emergency rule since the October 9th Order as are noted and explained in this Opinion. For a full understanding of today's action it is necessary to read each of the opinions issued in this matter as being cumulative.

Several comments have been received since the Board's adoption of a proposed emergency rule on October 9, 1986. In Public Comments Nos. 9 and 9A, Petrochem Services, Inc. states its belief that immediate removals conducted by responsible parties under Agency supervision should be exempted from the Section 39(h) process and that the proposal only exempts those remedial actions which are financed by USEPA or the Agency. Petrochem alleges that more than 90% of hazardous substance releases are cleaned up by responsible parties under the direction of either USEPA or the Agency and that the failure to

include such clean-ups in the Section 709.202 exemptions would cause delay, discourage voluntary action, and waste both governmental and private resources. Furthermore, Petrochem argues that other adequate protections exist to ensure proper disposal of such wastes, that the exemption would not cause any significant increase in the landfilling of such wastes, and that a public health hazard may actually be created. In Public Comment No. 15, on the other hand, the Agency states that while it "appreciates the Board's intentions in exempting remedial action wastes," it does not believe that Section 39(h) allows for such exemptions. It takes this position despite the fact that in Public Comment No. 3 the Agency requested expansion of the clean-up exemptions to cover actions pursuant to Section 4(s) of the Act, a position with which the Board agreed.

The Board finds that in using the word "wastestream" in Section 39(h) the legislature evidenced its intent to cover only those wastes which are "routinely or periodically produced." (See Section 709.102). Since spills would not ordinarily meet that definition, it makes sense that such wastes should be exempted, especially where other safeguards exist. The Board, therefore, will adopt the language proposed by Petrochem in Public Comment No. 9A as new subsection (c) with a minor language change. This action is being taken to ensure that a public health hazard is not inadvertently created through the failure to exempt such remedial actions.

The Board is uncertain as to whether such a hazard would actually arise absent this action and specifically invites further testimony on this exemption in Docket B, but the prudent course appears to be to allow it on an emergency basis.

In Public Comment No. 10, the Shell Oil Company indicates that surface impoundments should not be subject to Section 39(h). The Agency also contends that the surface impoundment provision is "confusing," and Citizens for a Better Environment (CBE) argues that such an exemption is illegal. (See P. C. No. 15, p. 6 and P. C. No. 16 pp. 3 and 6-7). The Board believes that a surface impoundment (or waste pile) which will not have all wastes and waste residuals removed upon closure is in practical effect the same as a landfill and should be covered by Section 39(h). If these material are all removed, then there is little or no basis to have it apply, and the Board continues to believe that it should be exempted.

Shell also contends that wastes which no longer exhibit the characteristics of hazardous waste in Part 721. Subpart E should not be considered hazardous for purposes of Section 39(h). (P. C. No. 10, pp. 1-2). The Board agrees that non-hazardous wastes should not be covered, but that is the purpose of Section 729.112(b). If the waste is non-hazardous, it should be delistable, and if the generator can establish its delistability, no other showing need be made.

Shell next contends that Section 729.122(e) should not be limited to the consideration of rendering a waste non-hazardous. Other commenters have also noted this. These comments are, unfortunately, based upon an error in the October 9, 1986 Order. The Opinion correctly indicates the Board's intent that the Agency consider the option of rendering the waste less hazardous. The Order, however, incorrectly states that it cannot. The Order has been corrected.

Finally, Shell argues that RCRA interim status should not be considered as a permit, citing Section 702.110. However, that section specifically relates to Part 705 and is being used out of context here. This question was discussed at hearing, and the Board believes that interim status should be considered the equivalent of "permitted."

In Public Comment No. 11 the Illinois Environmental Regulatory Group (IERG) urges quick action on emergency rules and urges the Board, if necessary, to specify that the Agency can continue to process applications using existing forms. The Agency and Peoria Disposal have indicated that the adoption of emergency rules would disrupt the Agency's processing of applications since procedures and forms would have to be revised and prior actions would have to be "called back." (P. C. No. 15, pp. 4-5). The Board fails to understand why this would be necessary. While the emergency rules may cause some changes in the Agency's decisionmaking process, that is for the most part an internal matter. To the extent that the Agency's application form requires information which becomes irrelevant under these rules, that information can be ignored, and there does not appear to be any information which the Board is ordering be submitted or which the Board is ordering the Agency to consider which goes beyond the Agency's present procedures, so that should not cause any problem. If such information is needed, it can be separately requested. Finally, if there is any impact on previous decisions, the magnitude of that impact will only increase the longer the Board waits before adopting rules. For these reasons, the Board finds that the adoption of emergency rules should not serve to disrupt the ongoing processing of applications.

In Public Comment No. 12 the Steel Group contends, among other things, that there is sufficient evidence before the Board to establish technical standards for electric arc furnace dust (EAF dust). The Board agrees that there is evidence in the record to establish that EAF dust is not treatable so as to render it non-hazardous and that it cannot at present be reused or recycled. However, the Board will not adopt such a rule at this time for two reasons. First, there is evidence that EAF dust should not be allowed in all hazardous waste landfills in that it is best managed in a monofill or other landfill which maintains a neutral pH, and there is considerable work being done to develop better technologies. Thus, some limitations appear

appropriate while the Board remains uncertain as to exactly what should be required. No specific language has been proposed, and the Board does not believe it has sufficient information to make its own proposal. Second, the intent of these emergency rules is to set forth guidance as to how the Section 39(h) program should be implemented and is not, in general, aimed toward remedying all specific problems. Such problems are less in the nature of an emergency and are best addressed after full consideration in Docket B.

In Public Comment No. 13 Waste Management, Inc. (WMI) reiterates its position that residuals should not be subject to Section 39(h) and argues that the Board has actually proposed disincentives to treatment which are contrary to the intent of that section. Such is not the Board's intent. Part of the basis of WMI's concern is the error in Section 729.122(e) which was noted above, and which is being corrected in this Order. The Board intends that the Agency can consider whether it is economically reasonable and technically feasible to treat wastes so as to render them less hazardous rather than non-hazardous. Secondly, WMI appears to have misconstrued the effect of Section 729.112(b). That section is not intended to preclude the landfilling of residuals unless the applicant demonstrates that the waste is delistable. Rather, if the waste is delistable, the Section 39(h) process is circumvented. If it is not delistable, then 39(h) will be applied in the same manner as it is applied to any other hazardous waste pursuant to Section 729.110(a).

In Public Comment No. 15 the Agency restates its belief that emergency rules are not justified and would be disruptive of the ongoing application process. These issues have been addressed above. The Agency also presents comments on several of the proposed rules. The Board's responses to significant comments which have not already been addressed follow:

Section 709.106: The Board has corrected the format of this rule and has amended the date of timely filing to November 15, 1986, since the adoption of these rules has been delayed. Both the Agency and CBE have again asserted that the Board lacks this authority. (P. C. No.16, pp. 3 and 7-8). However, the Board has already considered the issues regarding the Board's authority to set a date of timely filing which would allow for a determination after January 1, 1987, and has concluded that it does have such authority.

Section 709.110(b)(2): Under this section a non-complying discharge to a publicly owned treatment works would require approval, but such approval would be unlikely at best. This would allow for enforcement for failure to obtain approval in conjunction with any other violations.

Section 709.110(b)(4): The Board's rationale for exempting UIC's from the universe of land disposal units remains unchanged. CBE has also again challenged this exemption. (P. C. No. 16, pp. 3 and 7-8).

Section 709.403: The Agency argues that this is unnecessary. It is simply intended for notice purposes and will be retained.

Section 729.100(c): The Agency noted an inadvertent loophole in this rule which is intended to apply only to empty containers. The word "empty" has been added.

Section 729.112(a): The Agency believes that there is no reason to exclude wastes listed in 721.133 from the universe of generic hazardous wastes. The Agency is correct and the rule has been amended to add the phrase "or 721.113." This was inadvertently omitted when other changes were made to the rules.

Section 729.122: The Board fails to understand how it has shifted any burden of proof onto the Agency from the applicant. The Agency is simply to consider the information the applicant submits to it and determine whether the requisite showing has been made regarding economic reasonableness and technical feasibility. If sufficient information is lacking, the authorization can be denied as an insufficient demonstration. This is consistent with the legislative mandate.

The Board realizes that the rule is somewhat awkward and that some of the concepts have been forced under the heading of economic reasonableness when they might be better placed in other sections. However, the Board anticipates restructuring this rule in Docket B and has determined that for reasons of administrative convenience they should be grouped in this manner for purposes of this emergency rule.

In subsection (a) the Board does intend to preclude consideration of process substitutions and waste minimization. The Board finds that these concepts are contrary to Section 39(h) of the Act which specifically lists the appropriate considerations which deal with "end-of-the-pipe" wastes. The Board does not mean to suggest that process changes resulting in less hazardous wastes or less waste are anything but laudable, but rather finds that they are not part of the Section 39(h) process. CBE has again expressed its opinion that these options must be included in the Section 39(h) process. (P. C. No. 10, pp. 3 and 5-6).

In subsection (c) the Board in no way intends the Agency to bar in-state disposal simply because out-of-state disposal is less expensive, nor is "public health or environment" in Section 729.123(c) to be construed only as to apply to the State of Illinois. However, if there are properly run, fully permitted

facilities out-of-state which can be utilized in an economically reasonable and technically feasible manner and there are no such facilities in Illinois other than land disposal units, those wastes should not be allowed to be placed in an Illinois land disposal unit.

Subsection (d) may require a time-consuming process, but this rule is intended simply to reflect the mandate of Section 39(h). A generator cannot simply decide not to conduct treatment off-site and then demonstrate that it is not economically reasonable or technically feasible to treat it on-site, nor can he do the reverse. If a viable alternative may exist, it must be pursued.

Subsection (e) was incorrectly proposed as discussed earlier.

Section 729.123: Under Section 709.310 the applicant has the burden of demonstrating the lack of economic reasonableness and technical feasibility. As such, the applicant has the difficult task of proving a negative. The only burden on the Agency is to determine whether an adequate showing has been made. If the Agency is aware of an actual operation which could be used, the authorization can be denied. If the Agency is unaware of such actual operation, that does not, however, mean that the authorization must be granted. Only if the applicant demonstrates that there is no actual operation in existence has the technical feasibility requirement been met (as limited by subsection (b)). Further, under subsection (c) the Agency can consider information concerning pilot plants or studies which may indicate the future likelihood of a technically feasible alternative. That subsection is admittedly somewhat vague as to the meaning of likely and further refinement may be possible under Docket B.

Beside those arguments already noted, CBE has made additional comments, which are deserving of further discussion. Two general comments which appear to demonstrate a misunderstanding of the Board's position will be first addressed. CBE is disturbed that the Board's October 9, 1986, Opinion states that the proposed emergency rule "is likely to remain in substantially the same form in the final rules." All that was meant by that statement as that the format, not necessarily the substance, was likely to remain similar in the final rules. Secondly, CBE apparently believes that the Board has taken the position that Section 39(h) is not self-implementing and that the Agency could not act in the absence of Board rules. While the Board has noted that such an argument could be made, it has not found that to be the case. The Board has stated that the Agency lacks the authority to adopt substantive rules under Section 39(h) and continues to believe that to be the true.

CBE also appears to believe that the Board has precluded the Agency from consideration of recyclability and reuse through the deletion of that section. Such is not the case. The Board has simply withdrawn its proposed guidance on that issue in response to CBE's concerns regarding the language of the earlier proposed section. The consideration of those issues is expressly mandated by Section 39(h) and must be considered by the Agency.

Finally, CBE contends that the words "as much" should be deleted from Section 729.123(b). (P. C. No. 16, p. 8). The Board does not believe that in so doing it has created a "presumption in favor of land disposal," but it does agree that insofar as technical feasibility is concerned, the "as much" language should be deleted. That change has been made to the Order.

In Public Comment No. 17 the Agency has indicated its opposition to dropping the exclusion for persons who ship waste to a treater or storer who bulks the wastes with wastes from other generators. The Agency has finally recognized that dropping this exclusion would result in the inclusion in the Section 39(h) process of generators utilizing commercial off-site treatment, thereby greatly enlarging the universe of regulated persons and the administrative burden on the Agency. The Board had earlier recognized this problem and proposed language including the concept that the wastestreams "ceases to exist" for purposes of Section 39(h) to avoid this burden. That language caused concern regarding the possible avoidance of CERCLA liability which was not intended.

The Board agrees with the Agency that this burden is unjustified and will return to the concept employed in its June 11, 1986 proposal with certain modifications. The Board has moved the exclusion from the definition of land disposal unit to the personal exclusions of Section 709.202. The Board has also modified the definitions of "Wastestream" and "Original generator" in such a manner that it cannot result in any infringement upon the RCRA or CERCLA programs while avoiding the burden of duplicative applications.

ORDER

The Board hereby adopts the following emergency rules:

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>
709.103	Deemed-issued Wastestream Authorizations
709.104	Expiration of Supplemental Permits
709.105	Severability
<u>709.106</u>	<u>Deemed-Issued Wastestream Authorization Pursuant to</u> <u>35 Ill. Adm. Code 709.200</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>
<u>709.202</u>	<u>Exemptions</u>

SUBPART C: APPLICATIONS

Section	
709.301	<u>General Application for Liquid Hazardous Waste</u>
709.302	<u>Signatures</u>
<u>709.310</u>	<u>General Hazardous Waste Application</u>

SUBPART D: REVIEW OF WASTESTREAMS

Section	
<u>709.400</u>	<u>General Standard for Issuance</u>
<u>709.401</u>	<u>Standard for Issuance for Liquid Hazardous Waste</u>
<u>709.402</u>	<u>Negative Finding</u>
<u>709.403</u>	<u>Denial of Wastestream Authorization</u>
<u>709.404</u>	<u>Time Requirements for Agency Action</u>

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; emergency amendment adopted in R86-9A at 10 Ill. Reg , effective , for a maximum of 150 days.

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: Emergency added at 10 Ill. Reg. , effective , for a maximum of 150 days.

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. 19835, 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," but not the "original 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 the purpose of determining whether a wastestream authorization is required, and only for that purpose, 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.

(Source: Emergency amended at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

Section 709.106 Deemed-Issued Wastestream Authorizations
Pursuant to 35 Ill. Adm. Code 709.200

- a) Wastestream authorizations shall be deemed issued if the Agency fails to act within 90 days of the filing of the wastestream application as required by 35 Ill. Adm. Code 709.404. The wastestream authorization shall be deemed issued for the same time period as a permit deemed issued pursuant to Section 39(a) of the Act.
- b) Wastestream authorizations shall be deemed issued under the circumstances and for the time periods specified in Section 16(b) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, par. 1016(b)), if a timely and sufficient application has been filed. Applications filed with the Agency on or before November 15, 1986 shall be deemed timely filed for the purposes of this subsection.
- c) Upon written request by the applicant, the Agency shall issue a statement that a wastestream authorization has been deemed issued pursuant to subsections (1) or (2), above.

Section 709.110 Land Disposal Unit

- a) As used in this Part, a "land disposal unit" means 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 this definition, the following are examples of 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 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.
- 3) 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.
- 4) 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: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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, except surface impoundments and land treatment units.

(Source: Emergency amended at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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 22.7 of the Act;
- 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.) and spill responses pursuant to Section 4 (s) of the Act;
- c) Voluntary cleanups conducted by responsible parties and their contractors under the supervision or direction the Agency, or the United States Environmental Protection Agency with respect to wastes generated as a result of immediate and remedial action pursuant to the Comprehensive, Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et Seq.) and spill responses in accordance with Section 703.221 and 750.401(b); and

- d) A generator who ships wastes to a storage or treatment unit:
- 1) Which is not located at the facility at which the waste is generated; and,
 - 2) Of which the generator is not the owner or operator; and,
 - 3) At which the waste is combined with wastes from other generators for treatment or transportation to a treatment unit; and,
 - 4) For which the owner or operator has obtained a RCRA permit or interim status pursuant to 35 Ill. Adm. Code 703; and,
 - 5) For which the owner or operator has obtained a wastestream authorization for disposal of residuals from treatment of the combined waste.

(Source: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

SUBPART C: APPLICATIONS

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).
- c) The Agency may prescribe the form in which all information required under this Section shall be submitted.
- d) All permit applications shall be mailed or delivered to the appropriate address designated by the Agency, and shall be sent by registered or certified mail, return receipt requested or delivered in person. Applications which are hand-delivered shall be delivered to and

received for by the Manager of the Agency's Division of Land Pollution Control or his designee.

(Source: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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.
- c) **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: Emergency amended at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

Section 709.403 Denial of Wastestream Authorization

If the Agency denies any wastestream authorization required by 35 Ill. Adm. Code 709.201, the Agency shall transmit to the applicant specific, detailed statements as to the reasons the wastestream authorization was denied. Such statements shall include the factors enumerated in Section 39(a)(1)-(4) of the Act.

(Source: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

Section 709.404 Time Requirements for Agency Action

- a) An application for a wastestream authorization shall not be deemed filed until the Agency has received, at the designated address, all information, documents, and

authorization in the form and with the content required by this Part. However, if the Agency fails to notify the applicant within 30 days after the receipt of an application that the application is incomplete, and of the reasons, the application shall be deemed to have been filed on the date received by the Agency. An applicant may deem the Agency's notification that the application is incomplete as a denial of the wastestream authorization for purposes of review pursuant to 35 Ill. Adm. Code 709.603.

- b) If the Agency fails to take final action on the application within 90 days from the filing thereof, the applicant may deem the wastestream authorization granted on the 91st day after the application was filed.
- c) Any applicant may waive the requirement that the Agency shall take actions within the time periods of this Section.
- d) The Agency shall send all notices of final action by registered or certified mail, return receipt requested. Final action shall be deemed to have taken place on the date that such notice is mailed for the purposes of computing the 35 day appeal period pursuant to Section 40(a) of the Act.

(Source: Emergency added at 10 Ill. Reg. ,
effective) , for a maximum of 150 days.

SUBPART E: CONDITIONS OF WASTESTREAM AUTHORIZATIONS

Section 709.501 Duration

A wastestream authorization shall be valid for a period of not less than one nor more than three years.

(Source: Emergency amended at 10 Ill. Reg. ,
effective) , for a maximum of 150 days.

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: Emergency amended at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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

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- 729.320 Test for Liquids
- 729.321 Load-bearing Capacity Test

AUTHORITY: Implementing Sections 22(g), 22.4(b), 22.6 and 39(h) of the Environmental Protection Act (Ill. 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 (Ill. 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; emergency amendment adopted in R86-9A at 10 Ill. Reg. , effective , for a maximum of 150 days.

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

SUBPART A: GENERAL HAZARDOUS WASTE RESTRICTION

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 empty 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: Emergency amended at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

Section 729.102 Definitions

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

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1985, 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.

"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", but not the "original 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 the purpose of determining whether a wastestream authorization is required, and only for that purpose, 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.

(Source: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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 technical standards at Section 729.111 and 729.112 which are 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: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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 or 721.133.
- 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.

- 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 could be delisted pursuant to 35 Ill. Adm. Code 720.122.

(Source: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

Section 729.122 Economic Reasonableness

In making an ERTF determination the Agency shall consider all facts and circumstances bearing upon the economic reasonableness of recycling, reusing, incinerating, or chemically, physically or biologically neutralizing the hazardous waste and rendering it non-hazardous. In this regard, the Agency:

- a) Shall not consider process substitutions or waste minimization;
- b) Shall not consider the profitability of the generator. Generators may, however, request variances pursuant to 35 Ill. Adm. Code 104 based on a showing of arbitrary or unreasonable hardship;
- c) Shall consider the cost to transport the waste to the nearest available treatment or land disposal unit, including units located outside the state;
- d) Shall consider both the cost of conducting treatment at the site of generation and off-site;
- e) Shall consider whether it is economically reasonable to render the waste either non-hazardous or less hazardous;
- f) Shall not consider unrelated information regarding the applicant's other permits; and
- g) 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 factors 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; and
 - 5) The applicant's need to obtain any RCRA permits to install or operate any treatment or storage units which may be necessary in order to implement an otherwise economically reasonable alternative to disposal in a land disposal unit, the time it may

take to obtain such permits and the time which may be required to install such units.

(Source: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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 in an actual operation.
- b) A waste management alternative is not technologically feasible if it would result in more risk to public health and the environment when compared to land disposal of the waste.
- 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: Emergency added at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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: Emergency amended at 10 Ill. Reg. , effective) , for a maximum of 150 days.

Section 729.203 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: Emergency amended at 10 Ill. Reg. , effective) , for a maximum of 150 days.

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 ~~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: Emergency amended at 10 Ill. Reg. ,
effective), for a maximum of 150 days.

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 a halogenated solvent to be placed in any land disposal unit ~~landfill~~.

(Source: Emergency amended at 10 Ill. Reg. , effective), for a maximum of 150 days.

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: Emergency amended at 10 Ill. Reg. , effective), for a maximum of 150 days.

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 a 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: Emergency amended at 10 Ill. Reg. , effective), for a maximum of 150 days.

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: Emergency amended at 10 Ill. Reg. , effective), for a maximum of 150 days.

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, except surface impoundments and land treatment units.

(Source: Emergency amended at 10 Ill. Reg. , effective), for a maximum of 150 days.

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

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: Emergency amended at 10 Ill. Reg. , effective), for a maximum of 150 days.

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: Emergency amended at 10 Ill. Reg. , effective), for a maximum of 150 days.

IT IS SO ORDERED.

Board Members R. Flemal and B. Forcade dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 23rd day of October, 1986 by a vote of 4-2.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board