**Section 721.111 Criteria for Listing Hazardous Waste**

a) USEPA stated in corresponding federal 40 CFR 261.11 that it lists a solid waste as a hazardous waste only upon determining that the solid waste meets one of the following criteria:

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

2) Acute hazardous waste. The solid waste has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity (rat) of less than 50 mg/kg, an inhalation LC 50 toxicity (rat) of less than 2 mg/ℓ, or a dermal LD 50 toxicity (rabbit) of less than 200 mg/kg or is otherwise capable of causing or significantly contributing to an increase in serious irreversible or incapacitating reversible, illness.

BOARD NOTE: Waste listed under subsection (a)(2) are designated Acute Hazardous Waste.

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

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

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

B) The concentration of the constituent in the waste;

C) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in subsection (a)(3)(G);

D) The persistence of the constituent or any toxic degradation product of the constituent;

E) The potential for the constituent or any toxic degradation product of the constituent to degrade into nonharmful constituents and the rate of degradation;

F) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems;

G) The plausible types of improper management to which the waste could be subjected;

H) The quantities of the waste generated at individual generator sites or on a regional or national basis;

I) The nature and severity of the human health and environmental damage that has occurred because of the improper management of the wastes containing the constituent;

J) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent; and

K) Other factors as may be appropriate.

BOARD NOTE: Wastes listed under subsection (a)(3) are designated toxic wastes.

b) USEPA stated in corresponding federal 40 CFR 261.11(b) that it may list classes or types of solid waste as hazardous waste if USEPA has reason to believe that individual wastes, within the class or type of waste, typically or frequently are hazardous under the definition of hazardous waste found in section 1004(5) of RCRA (42 USC 6904(5)).

(Source: Amended at 48 Ill. Reg. 16813, effective November 7, 2024)