**Section 722.111 Hazardous Waste Determination**

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must make an accurate determination as to whether that waste is a hazardous waste to ensure that the waste is properly managed according to applicable RCRA regulations. A hazardous waste determination is made using the following steps:

a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change.

b) The person must determine whether the solid waste is excluded from regulation under 35 Ill. Adm. Code 721.104.

c) If the waste is not excluded under 35 Ill. Adm. Code 721.104, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under Subpart D of 35 Ill. Adm. Code 721. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If a waste is listed, the person may file a delisting petition under 35 Ill. Adm. Code 720.120 and 720.122 to demonstrate to the Administrator that the waste from this particular site or operation is not a hazardous waste.

d) The person then must also determine whether the waste exhibits one or more hazardous characteristics, as identified in Subpart C of 35 Ill. Adm. Code 721, by following the procedures in subsection (d)(1) or (d)(2), or a combination of both.

1) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (e.g.,information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method in Subpart C of 35 Ill. Adm. Code 721, or an equivalent test method approved by the Agency or the Board under 35 Ill. Adm. Code 720.121, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, the tests do not, by themselves, provide definitive results. Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at 35 Ill. Adm. Code 720.110.

2) When available knowledge is inadequate to make an accurate determination, the person must test the waste according to the applicable methods in Subpart C of 35 Ill. Adm. Code 721 or according to an equivalent method approved by the Administrator under 35 Ill. Adm. Code 720.121 and complying with the following:

A) A persons testing its waste must obtain a representative sample of the waste for the testing, as defined at 35 Ill. Adm. Code 720.110.

B) Where a test method is specified in Subpart C of 35 Ill. Adm. Code 721, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

e) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 721, 724 through 728, and 733 for possible exclusions or restrictions pertaining to the management of the specific waste.

f) Recordkeeping for SQGs and LQGs. A SQG or LQG must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by 35 Ill. Adm. Code 721.103. Records must be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described at subsections (c) and (d). The records must include the following types of information: the results of any tests, sampling, waste analyses, or other determinations made in compliance with this Section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of the tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at subsection (d)(1). The periods of record retention referred to in this Section are extended automatically during any unresolved enforcement action regarding the regulated activity or as requested in writing by the Agency.

BOARD NOTE: Any Agency request for extended records retention under this subsection (f) is subject to Board review under Section 40 of the Act.

g) Identifying USEPA Hazardous Waste Numbers for SQGs and LQGs. Consistent with subsection (d), if the waste is determined to be hazardous, SQGs and LQGs must identify all applicable USEPA hazardous waste numbers in Subparts C and D of 35 Ill. Adm. Code 721. Prior to shipping the waste off site, the generator also must mark its containers with all applicable USEPA hazardous waste numbers (USEPA hazardous waste numbers) according to 35 Ill. Adm. Code 722.132.

(Source: Amended at 48 Ill. Reg. 16994, effective November 7, 2024)