

§ 273.80

40 CFR Ch. I (7-1-03 Edition)

(c) of this section, in addition to the requirements of 40 CFR part 262, subpart H.

[60 FR 25542, May 11, 1995, as amended at 61 FR 16316]

Subpart G—Petitions to Include Other Wastes Under 40 CFR Part 273

§ 273.80 General.

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to this part may petition for a regulatory amendment under this subpart and 40 CFR 260.20 and 260.23.

(b) To be successful, the petitioner must demonstrate to the satisfaction of the Administrator that regulation under the universal waste regulations of 40 CFR part 273 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by 40 CFR 260.20(b). The petition should also address as many of the factors listed in 40 CFR 273.81 as are appropriate for the waste or waste category addressed in the petition.

(c) The Administrator will evaluate petitions using the factors listed in 40 CFR 273.81. The Administrator will grant or deny a petition using the factors listed in 40 CFR 273.81. The decision will be based on the weight of evidence showing that regulation under 40 CFR part 273 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

§ 273.81 Factors for petitions to include other wastes under 40 CFR part 273.

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in subpart D of part 261 of this chapter, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in subpart C of part 261 of this chapter. (When a characteristic waste is added to the universal waste

regulations of this part 273 by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in § 260.10 of this chapter and § 273.9 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries.) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this part 273;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities);

(c) The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to 40 CFR 273.13, 273.33, and 273.52; and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under 40 CFR part 273 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA.