EXAMINATION II  March 2003  Distance Education  ARE 309

Instructions: You may use one 3x5 card of notes, handwritten, front and back. No other notes or books are permitted. All answers must be placed on the scantron sheet using a number 2 pencil. If you must erase, please make sure that erasures are complete. Please keep the test paper and bring it to the next class. Each question is worth one point unless otherwise stated. You may leave after you give your scantron sheet to the proctor. Please put your name, last name first, in the correct box on the scantron sheet. There are 80 points available on the test.

1. Hazardous waste is defined by:
   a. Ignitability
   b. Corrosivity
   c. Toxicity
   d. Reactivity
   e. All of the above

2. The philosophy behind hazardous waste regulation under RCRA is one of
   a. Remediation
   b. Prevention
   c. Management
   d. Storage
   e. None of the above

3. In order to bring a citizen suit under RCRA, a potential plaintiff must
   a. Give notice to the Administrator of EPA
   b. Give notice to the alleged violator
   c. Give notice to the state where the violation occurred
   d. All of the above
   e. Only EPA

4. Under which circumstance might a citizen suit be brought under RCRA?
   a. EPA is suing the alleged violator
   b. The violation is continuous
   c. The state has assessed a civil penalty against the violator
   d. The alleged violator is subject to a proceeding under CERCLA
   e. None of the above

5. What is the purpose of a manifest in hazardous waste management?
   a. record waste being disposed
   b. used for transport of waste
   c. record receipt by disposal site
   d. implement 'cradle-to-grave' approach to handling hazardous waste
   e. all of the above

6. A generator of hazardous waste remains responsible for it until
   a. it is removed from the generator's property
   b. it is delivered to a trucking firm
   c. it is exported to some unsuspecting foreign country
   d. potentially forever
   e. none of the above

7. A generator of hazardous waste must
   a. avoid inspections
   b. make annual reports to regulatory agency (ies)
   c. award disposal contracts to the disposal firm with the lowest prices
   d. put the waste under a bridge
   e. none of the above
8. Due diligence on the part of a RCRA hazardous waste generator means
a. knowing where the waste is being generated in facilities owned or managed by the generator
b. finding the cheapest disposal site
c. hear no evil, see no evil
d. all of the above
e. none of the above

9. Due diligence on the part of a RCRA hazardous waste generator means
a. knowing the disposal site, and that it is properly licensed and managed
b. making a site visit to the disposal site
c. choosing a reputable waste transporter
d. keeping good records
e. all of the above

10. Violations of RCRA may be enforced through
a. administrative compliance orders
b. injunctions
c. criminal penalties
d. fines
e. all of the above

11. Toxicity refers to the
a. tendency of waste to catch on fire
b. tendency of waste to explode
c. poisonous character of waste
d. the unstable character of waste
e. none of the above

12. True or False  Once the Third Circuit determined that the Superfund Recycling Equity Act of 1999 applied retroactively to protect those who had shipped old batteries to the Gould site (Gould Inc. v. A & M Battery & Tire Service), those that had settled with Gould could successfully demand the return of their money.

13. Why doesn't EPA list all of the hazardous chemicals covered under RCRA by name?
a. New chemicals are constantly being developed
b. EPA lacks the resources to test every chemical in use
c. With about 70,000 chemicals in use in the U.S., EPA could not test all of these in a timely manner
d. All of the above
e. None of the above

14. True or False  Scienter for purposes of criminal charges under RCRA (U.S. v. Cover-It, Inc.) may be established by proving that the defendant had a general knowledge that he was violating the law.

15. The most commonly used method of solid waste disposal in the United States is
a. The midden heap
b. Open burning
c. Lined & capped sanitary landfills
d. Incineration in a modern incinerator
e. None of the above

16. The most commonly used method of solid waste disposal in Western Europe is
a. The midden heap
b. Open burning
c. Lined & capped sanitary landfills
d. Incineration in a modern incinerator
e. None of the above
17. Open dumping is  
a. Beneficial to the public health  
b. Beneficial to groundwater quality  
c. A source of disease and vermin  
d. An acceptable method of solid waste disposal  
e. Beneficial to surface water quality

18. Ash from incineration of solid waste  
a. Can be used for fertilizer  
b. Can be spread on playgrounds  
c. Is often used in organic food production  
d. Must generally be disposed of as hazardous waste under RCRA  
e. None of the above

19. RCRA hazardous waste may be dumped in sanitary landfills if  
a. it is only a small quantity  
b. it is approved by the landfill director  
c. it is undetected by EPA  
d. it is never allowed  
e. it is undetected by the landfill operator

20. The philosophy behind the regulation of underground storage tanks is one of  
a. Remediation  
b. Prevention  
c. Management  
d. Storage  
e. None of the above

21. Pesticide registrations are reviewed on a  
a. 3-year cycle  
b. 5-year cycle  
c. 10-year cycle  
d. 15-year cycle  
e. 20-year cycle

22. Pesticide residues in foods are regulated under the  
a. Federal Food, Drug, and Cosmetic Act  
b. Federal Insecticide, Fungicide, and Rodenticide Act  
c. Clean Water Act  
d. Solid Waste Disposal Act  
e. Resource Conservation Recovery Act

23. Registration of pesticides is required under the  
a. Federal Food, Drug, and Cosmetic Act  
b. Federal Insecticide, Fungicide, and Rodenticide Act  
c. Clean Water Act  
d. Solid Waste Disposal Act  
e. Resource Conservation Recovery Act

24. The "Delaney Clause" effectively  
a. prohibited any carcinogenic pesticide residues in food  
b. did not prohibit residues of non-carcinogenic pesticides that carried higher risks  
c. was repealed in 1996  
d. all of the above  
e. none of the above
25. A general use pesticide may
   a. be used without applicator certification
   b. only with applicator certification
   c. is not dangerous
   d. be used on certified organic products
   e. none of the above

26. A restricted use pesticide may
   a. be used without applicator certification
   b. only with applicator certification
   c. is not dangerous
   d. be used on certified organic products
   e. none of the above

27. Restricted use pesticides must
   a. always be used under the supervision of a certified operator
   b. be used in conformity with the label (unlike general use pesticides)
   c. be applied at night
   d. all of the above
   e. none of the above

28. To qualify for registration a pesticide must
   a. perform its intended function
   b. be deadlier than other pesticides
   c. provided extended coverage
   d. be safe to eat
   e. none of the above

29. Factors that EPA considers when evaluating a pesticide registration application include
   a. impact on groundwater
   b. carcinogenicity
   c. immunological affects
   d. nervous system affects
   e. all of the above

30. FIFRA requires that certain pesticide registration data be kept confidential because
   a. the public might protest if it knew how deadly the pesticide was
   b. national security
   c. to protect trade secrets
   d. to hinder competition
   e. none of the above

31. Under FIFRA pesticides include
   a. herbicides
   b. insecticides
   c. rodenticides
   d. fungicides
   e. all of the above

32. Rodenticides are designed to kill
   a. coyotes
   b. rats and mice
   c. bacteria
   d. cockroaches
   e. none of the above
33. Under FIFRA most enforcement is conducted by
a. EPA  
b. FDA  
c. the states  
d. local governments  
e. cities

34. Under FIFRA, states may
a. register additional uses  
b. add additional labeling requirements  
c. approve pesticides for which the registration has been revoked by EPA  
d. set more stringent tolerances than those set by EPA  
e. none of the above

35. True or False. Organic pesticides are harmless to humans and animals.

36. True or False. Toxic substances are all regulated under FIFRA.

37. True or False The Toxic Substance Control Act provides a unified, comprehensive regulatory scheme for all toxic substances used in our society.

38. True or False EPA may only regulate a substance when the scientific data for it is certain.

39. Risk assessment under the Toxic Substance Control Act includes
a. hazard identification  
b. dose response assessment  
c. exposure assessment  
d. all of the above  
e. none of the above

40. True or False The Toxic Substance Control Act requires that manufacturers develop comprehensive data on the chemicals that the propose to use.

41. EPA can be expected to analyze all of the chemicals regulated under the Toxic Substance Control Act within
a. 2 years  
b. 3 years  
c. 5 years  
d. 10 years  
e. more than 50 years

42. What is MSDS an acronym for?
b. Material Safety Data Statistics.  
c. Material Safety Data Sheet.  
d. Material Safety Description Sheet.  
e. None of the above.

43. MSDSs are required under the terms of
   a. Occupational Safety and Health Act (OSHA)  
b. Emergency Planning and Community Right To Know Act (EPCRA)  
c. Local and state regulations pursuant to EPCRA.  
d. All of the above.  
e. None of the above
44. True or False. Prior to importation or manufacture of a chemical not previously registered with EPA under TSCA, anyone proposing to import or manufacture such a chemical must register it.

45. True or False. The Emergency Planning and Community Right-to-Know Act (EPCRA) requires that emergency responders be notified of hazardous materials stored within or transported through their jurisdiction.

46. True or False. Risks that are not identified cannot be managed.

47. Which is not a step in the risk management model?
   a. Risk identification
   b. Risk scarification
   c. Risk evaluation
   d. Selection and implementation
   e. Program monitoring

48. Types of risks that may be identified include:
   a. Property damage
   b. Loss of income
   c. Regulatory liability (for environmental violations)
   d. Tort liability
   e. All of the above

49. True or False. The risk management model requires that risks be categorized in a matrix according to their severity and the willingness of insurance companies to provide coverage.

50. Possible risk treatments include:
   a. Contingency planning
   b. Compliance efforts
   c. Incident reporting
   d. Risk financing
   e. All of the above

51. True or False. The best risk control (treatment) means are generally selected and implemented.

52. True or False. Corrective action is not part of the program monitoring step of the risk management model.

53. EPA is supporting the Federal counter-terrorism program by:
   a. helping State and local responders to plan for emergencies
   b. coordinating with key Federal Partners
   c. training first responders
   d. providing resources in the event of a terrorist incident
   e. all of the above

54. True or False. Risk Management Plans are required of all facilities that handle extremely hazardous chemicals.

55. Which of the following landowners are likely to have CERCLA (enacted in 1980) cleanup liability:
   a. the owner of a site contaminated by mercury mining operations conducted between 1856 and 1951
   b. the owner of a site who used it to dispose of PCB’s (a CERCLA hazardous waste) from 1990 to the present in violation of CERCLA and other laws
   c. the owner of a pesticide mixing plant whose operations contaminated the soil between 1972 and 1991
   d. The owner of a pressure treated lumber plant that has known groundwater contamination and that was closed in 1966
   e. all of the above.
56. CERCLA liability for waste deposited before the enactment of CERCLA is described as:
   a. joint and several
   b. retroactive
   c. strict
   d. all of the above
   e. none of the above

57. Which of the following landowners are likely to have cleanup liability under CERCLA:
   a. the current owner who purchased the property without any knowledge of the hazardous waste
      contaminating the soil.
   b. the previous owner who owned the land prior to the current owner who contaminated it.
   c. the owner of a pesticide mixing plant whose operations contaminated the soil between 1972 and 1991.
   d. a and c, but not b
   e. none of the above

58. CERCLA liability of a purchaser who was not involved in depositing the waste, and who did no due
diligence, is described as:
   a. negligent
   b. absurd
   c. strict
   d. tough luck
   e. none of the above

59. John Doe owns Blackacre. Mr. Doe purchased it from Jane Roe, who purchased it from Dirty Larry,
who created the contamination that is now of concern to EPA. EPA sued Doe and Roe to recover the cost
of remediating the property. EPA was granted a judgment against both Doe and Roe, but recovered the
total amount of the judgment from Roe, whose assets were more accessible. This is an example of the
application of _______________ in the context of CERCLA.
   a. joint and several
   b. retroactive
   c. negligent
   d. intentional
   e. none of the above

60. John Doe owns Blackacre. Mr. Doe purchased it from Jane Roe, who purchased it from Dirty Larry,
who created the contamination that is now of concern to EPA. EPA sued Doe and Roe to recover the cost
of remediating the property. EPA was granted a judgment against both Doe and Roe, but recovered the
total amount of the judgment from Roe, whose assets were more accessible. Since Roe paid EPA the entire
amount of its cleanup costs, Roe may bring an action against Doe and Larry to recover their equitable
shares of the cleanup cost. This lawsuit is called a(n) _______________ action.
   a. contribution
   b. retribution
   c. interpleader
   d. in rem
   e. none of the above

61. True or False  Strict liability is based upon the defendant’s fault.

62. True or False  Joint and several liability means that, where multiple potential defendants exist, a
plaintiff may sue any one, all, or any subgroup of the potential defendants, and recover the entire amount
due from any one without regard to that defendant’s or defendants’ proportionate share.

63. True or False  CERCLA permits citizen suits only if EPA is also bringing an action under CERCLA
related to the same site.
64. True or False  Liability under CERCLA is a form of common law tort liability.

65. True or False  A buyer of real property may protect herself from CERCLA liability by causing a preliminary environmental site assessment to be conducted prior to closing on the property.

66. True or False  If the preliminary environmental site assessment shows that a property is severely contaminated, and the buyer goes ahead and purchases it anyway, the buyer will be liable under CERCLA.

67. The mandatory components of CERCLA include:
   a. Mandatory reporting of hazardous substance releases
   b. Response and remediation
   c. A list of sites by priority
   d. all of the above
   e. none of the above

68. True or False  All hazardous waste sites are listed on the National Priorities List (NPL).

69. NPL listings are published in
   a. N.C. Register
   b. Congressional Record
   c. Federal Register
   d. N.C. Administrative Code
   e. None of the above

70. The National Response Center was created under the
   a. Comprehensive Environmental Response, Compensation and Liability Act
   b. Clean Water Act
   c. National Environmental Policy Act
   d. N.C. Environmental Policy Act
   e. None of the above

71. A covered person under CERCLA may include
   a. an individual
   b. a corporation
   c. a county government
   d. a church
   e. all of the above

72. A covered person under CERCLA may include
   a. the U.S. Air Force
   b. a church
   c. an individual landowner
   d. the U.S. Army
   e. all of the above

73. A potentially responsible party (PRP) under CERCLA may include
   a. an owner of land where waste was found
   b. a person who owned a facility at the time waste was disposed of at that facility
   c. a person who accepted waste for transport
   d. a person who contracted to have waste transported
   e. all of the above
74. Which is not a defense to CERCLA cleanup liability?
   a. Lack of knowledge
   b. Act of third party
   c. Act of god
   d. Act of war
   e. Acquired property by inheritance

75. To use the innocent landowner defense to CERCLA liability, a property owner must prove that, prior to purchase, he exercised
   a. due diligence
   b. due care
   c. due awareness
   d. none of the above
   e. there is no escape from liability under CERCLA

76. A landowner who succeeds with an innocent landowner defense to CERCLA liability may
   a. develop the property
   b. push the waste to one corner of the property
   c. recover her investment in the property from the Superfund
   d. push the waste onto neighboring property
   e. none of the above

77. In the context of commercial property transactions, due diligence is usually accomplished by
   a. walking the property
   b. conducting a preliminary environmental site assessment
   c. having the seller sign a disclosure statement at closing
   d. conducting an internet search
   e. none of the above

78. EPA’s brownfields program is designed to
   a. return property to productive use without conducting full (and expensive) cleanup
   b. return property to productive use after conducting full cleanup
   c. reflect the color of most hazardous waste
   d. all of the above
   e. none of the above

79. Which one could not be a Superfund site?
   a. an electric equipment storage yard contaminated with PCBs
   b. an oil field contaminated with petroleum
   c. an apple orchard contaminated with arsenic based pesticides
   d. a disposal area for mixed laboratory waste
   e. the site of a former pesticide plant that had severely contaminated the land with arsenic

80. Of the following, who is most likely to have CERCLA liability?
   a. Joe who inherited a property on the NPL from his uncle
   b. ABC Bank that foreclosed on a site contaminated with CERCLA hazardous waste and which caused all
      of the waste to be piled in one corner of the property
   c. Alfred upon whose property an unknown third party dumped PCB laced oil
   d. J.R. Ewing who has severely contaminated his property with petroleum in the process of drilling for oil
   e. Jones who discovered that after Hurricane Floyd flooded his property there were three barrels of
      hazardous waste leaking in his front yard