

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standards Applicable to Generators of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 722
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
722.111	Amend
722.185	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 722 are a single segment of the docket R13-15 rulemaking that also affects 35 Ill. Adm. Code 703, 704, 720, 724, 725, 726, 727, 728, and 738, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R13-15 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 703. A comprehensive description is contained in the Board's opinion and order of June 20, 2013, proposing amendments in docket R13-15, which opinion and order is available from the address below.

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Pollution Control Board

Specifically, the amendments to Part 722 implement a correction suggested by USEPA and make corrections that the Board has determined are needed. The Board's opinion and order of June 20, 2013 in docket R13-15 discusses the more substantial corrections made in the text. Tables that appear in that opinion and order list all of the various corrections and amendments included in this proceeding. Persons interested in the details of those corrections and amendments should refer to the June 20, 2013 opinion and order in docket R13-15.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Does this rulemaking contain incorporations by reference? No. The centralized location of all incorporations by reference for the purposes of all of the Illinois hazardous waste and underground injection control regulations, including Part 722, is 35 Ill. Adm. Code 720.111.
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2010)].
- 11) Are there any other rulemakings pending on this Part? No
- 12) Time, Place and manner in which interested persons may comment on this rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R13-15 and be addressed to:

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

Please direct inquiries to the following person and reference docket R13-15:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601

Phone: 312-814-6924  
E-mail: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us)

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial regulatory flexibility analysis:

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- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2010)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2010)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2010)].

14) Regulatory Agenda on which this rulemaking was summarized: December 2012

The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 722  
STANDARDS APPLICABLE TO  
GENERATORS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section	
722.110	Purpose, Scope, and Applicability
722.111	Hazardous Waste Determination
722.112	USEPA Identification Numbers
722.113	Electronic Reporting

SUBPART B: THE MANIFEST

Section	
722.120	General Requirements
722.121	Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests
722.122	Number of Copies
722.123	Use of the Manifest
722.127	Waste Minimization Certification

SUBPART C: PRE-TRANSPORT REQUIREMENTS

Section	
722.130	Packaging
722.131	Labeling
722.132	Marking
722.133	Placarding
722.134	Accumulation Time

SUBPART D: RECORDKEEPING AND REPORTING

Section	
722.140	Recordkeeping
722.141	Annual Reporting

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- 722.142      Exception Reporting
- 722.143      Additional Reporting
- 722.144      Special Requirements for Generators of between 100 and 1,000 kilograms per month

SUBPART E: EXPORTS OF HAZARDOUS WASTE

- Section
- 722.150      Applicability
- 722.151      Definitions
- 722.152      General Requirements
- 722.153      Notification of Intent to Export
- 722.154      Special Manifest Requirements
- 722.155      Exception Report
- 722.156      Annual Reports
- 722.157      Recordkeeping
- 722.158      International Agreements

SUBPART F: IMPORTS OF HAZARDOUS WASTE

- Section
- 722.160      Imports of Hazardous Waste

SUBPART G: FARMERS

- Section
- 722.170      Farmers

SUBPART H: TRANS-BOUNDARY SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD

- Section
- 722.180      Applicability
- 722.181      Definitions
- 722.182      General Conditions
- 722.183      Notification and Consent
- 722.184      Movement Document
- 722.185      Contracts
- 722.186      Provisions Relating to Recognized Traders
- 722.187      Reporting and Recordkeeping

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722.189 OECD Waste Lists

SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS WASTE  
DETERMINATION AND ACCUMULATION OF UNWANTED MATERIAL FOR  
LABORATORIES OWNED BY ELIGIBLE ACADEMIC ENTITIES

Section

- 722.300 Definitions
- 722.301 Applicability
- 722.302 Opting into the Subpart K Requirements
- 722.303 Notice of Election into the Subpart K Requirements
- 722.304 Notice of Withdrawal from the Subpart K Requirements
- 722.305 Summary of the Requirements of this Subpart K
- 722.306 Container Standards in the Laboratory
- 722.307 Personnel Training
- 722.308 Removing Unwanted Material from the Laboratory
- 722.309 Hazardous Waste Determination and Removal of Unwanted Material from the  
Laboratory
- 722.310 Hazardous Waste Determination in the Laboratory
- 722.311 Hazardous Waste Determination at an On-Site Central Accumulation Area
- 722.312 Hazardous Waste Determination at an On-Site Treatment, Storage, or Disposal  
Facility
- 722.313 Laboratory Clean-Outs
- 722.314 Laboratory Management Plan
- 722.315 Unwanted Material That Is Not Solid Waste or Hazardous Waste
- 722.316 Non-Laboratory Hazardous Waste Generated at an Eligible Academic Entity

722.APPENDIX A Hazardous Waste Manifest

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the  
Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and  
codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.  
2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24,  
1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at  
10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective  
December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended  
in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg.  
13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27,

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1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17888, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8773, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL

**Section 722.111 Hazardous Waste Determination**

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:



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- c) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the wastes if its disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify the following:
  - 1) That the person having actual possession or physical control over the wastes will immediately inform the exporter and the competent authorities of the country of export and country of import and, if the wastes are located in a country of transit, the competent authorities of that country; and
  - 2) That the person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of wastes and, as the case may be, shall provide the notification for re-export.
- d) Contracts must specify that the importer will provide the notification required in Section 722.182(c) prior to re-export of controlled wastes to a third country.
- e) Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any country concerned, in accordance with applicable national or international law requirements.

BOARD NOTE: Financial guarantees so required are intended to provide for alternative recycling, disposal, or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The U.S. does not require such financial guarantees at this time; however, some OECD member countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, a transporter or importer may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

- f) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this Subpart H.
- g) Upon request by USEPA or the Agency, a U.S. exporter, importer, or recovery facility must submit to USEPA and the Agency copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is

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asserted in accordance with 35 Ill. Adm. Code ~~120~~ 130 will be treated as confidential and will be disclosed by the Agency only as provided in 35 Ill. Adm. Code ~~120~~ 130.

BOARD NOTE: Although the United States does not require routine submission of contracts at this time, OECD Guidance Manual allows OECD member countries to impose such requirements. When other OECD member countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, USEPA or the Agency will request the required information; absent submission of such information, some OECD member countries may deny consent for the proposed movement.

(Source: Amended at 37 Ill. Reg.         , effective                                 )

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Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	15

**EXEMPT**

JCAR350722-1309242r01

1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE G: WASTE DISPOSAL  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS  
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6 PART 722  
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36 SUBPART D: RECORDKEEPING AND REPORTING  
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41	722.142	Exception Reporting
42	722.143	Additional Reporting
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44 month

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46 SUBPART E: EXPORTS OF HAZARDOUS WASTE

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62 722.160 Imports of Hazardous Waste

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64 SUBPART G: FARMERS

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66 Section  
67 722.170 Farmers

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78 722.185 Contracts  
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80 722.187 Reporting and Recordkeeping  
81 722.189 OECD Waste Lists

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83 SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS WASTE  
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110 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the  
 111 Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].  
 112

113 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and  
 114 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.  
 115 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24,  
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 125 R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg.  
 126 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27,  
 127 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-  
 128 10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-  
 129 3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg.

130 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20,  
131 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29  
132 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138,  
133 effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective  
134 December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008;  
135 amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-  
136 2/R11-16 at 35 Ill. Reg. 17888, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg.  
137 8773, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. \_\_\_\_\_, effective

138 \_\_\_\_\_.

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SUBPART A: GENERAL

**Section 722.111 Hazardous Waste Determination**

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
  - 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
  - 2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) 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.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART H: TRANS-BOUNDARY SHIPMENTS OF  
HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD

**Section 722.185 Contracts**

- a) Trans-boundary movements of hazardous wastes subject to the Amber control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the exporter and the owner or operator of the recovery facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this Section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.
- b) Contracts or equivalent arrangements must specify the following names and USEPA identification numbers, where available:
  - 1) The generator of each type of waste;
  - 2) Each person that will have physical custody of the wastes;
  - 3) Each person that will have legal control of the wastes; and
  - 4) The recovery facility.
- c) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the wastes if its disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify the following:
  - 1) That the person having actual possession or physical control over the wastes will immediately inform the exporter and the competent authorities of the country of export and country of import and, if the wastes are located in a country of transit, the competent authorities of that country; and
  - 2) That the person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of wastes and,

as the case may be, shall provide the notification for re-export.

- d) Contracts must specify that the importer will provide the notification required in Section 722.182(c) prior to re-export of controlled wastes to a third country.
- e) Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any country concerned, in accordance with applicable national or international law requirements.

BOARD NOTE: Financial guarantees so required are intended to provide for alternative recycling, disposal, or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The U.S. does not require such financial guarantees at this time; however, some OECD member countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, a transporter or importer may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

- f) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this Subpart H.
- g) Upon request by USEPA or the Agency, a U.S. exporter, importer, or recovery facility must submit to USEPA and the Agency copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 35 Ill. Adm. Code ~~130120~~ will be treated as confidential and will be disclosed by the Agency only as provided in 35 Ill. Adm. Code ~~130120~~.

BOARD NOTE: Although the United States does not require routine submission of contracts at this time, OECD Guidance Manual allows OECD member countries to impose such requirements. When other OECD member countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, USEPA or the Agency will request the required information; absent submission of such information, some OECD member countries may deny consent for the proposed movement.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)