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POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Standards Applicable to Generators of Hazardous Waste

2) Code citation: 35 Ill. Adm. Code 722

<u>Section numbers:</u>	<u>Adopted action:</u>
722.110	Amend
722.111	Amend
722.123	Amend
722.134	Amend
722.142	Amend
722.158	Amend
722.160	Amend
722.180	Amend
722.181	Amend
722.182	Amend
722.183	Amend
722.184	Amend
722.185	Amend
722.186	Amend
722.187	Amend
722.189	Amend
722.300	Amend
722.303	Amend
722.304	Amend
722.306	Amend
722.312	Amend
722.314	Amend

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STATE OF ILLINOIS  
Pollution Control Board

4) Statutory authority: 415 ILCS 5/7.2, 2214, and 27.

5) Effective date of amendments: OCT 14 2011

6) Does this rulemaking contain an automatic repeal date?: No.

7) Do these amendments contain incorporations by reference?

No. The incorporations by reference for the purposes of all of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, and 739 appear in 35 Ill. Adm. Code 720.111.

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Amendments to 35 Ill. Adm. Code 720.111 relate documents incorporated by reference for the purposes of this Part 722, including segments amended in this proceeding.

8) Statement of availability:

The adopted amendments, a copy of the Board's opinion and order adopted August 18, 2011 in docket R11-2/R11-16 (consolidated), and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.

9) Notice of proposal published in the Illinois Register:

June 24, 2011, 35 Ill. Reg. 9484

10) Has JCAR issued a statement of objections to these rules? No.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] 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).

11) Differences between the proposal and the final version:

The Board included the text of Sections 722.141 and 722.155 in the proposed amendments without proposing amendments to the text. The Board had completed the amendments in an earlier rulemaking. The Board included the text of the two sections in the proposal should public comments indicate that additional amendments were necessary. After receiving no such comments the Board removed both provisions from this proceeding.

A table that appears in the Board's opinion and order of August 18, 2011 in docket R11-2/R11-16 (consolidated) summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated June 2, 2011, in docket R11-2/R11-16 (consolidated). Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor corrections and stylistic revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without

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deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR?

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] 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 JCAR.

Since the Notices of Proposed Amendments appeared in the June 24, 2011 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of August 18, 2011 in docket R11-2/R11-16 (consolidated), as indicated in item 11 above. See the August 18, 2011 opinion and order in docket R11-2/R11-16 (consolidated) for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will these amendments replace emergency amendments currently in effect? No.
- 14) Are there any other amendments pending on this Part? No.
- 15) Summary and purpose of amendments:

The amendments to Part 722 are a single segment of the docket R11-2/R11-16 rulemaking that also affects 35 Ill. Adm. Code 702, 720, 721, 723, 724, 725, 726, and 728, 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 R11-2/R11-16 rulemaking in this *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinions and orders of June 2, 2011 and August 18, 2011 in docket R11-2/R11-16, which opinions and orders are available from the address below.

Specifically, the amendments to Part 722 implement segments of the January 8, 2010 federal amendments to the hazardous waste import and export requirements; the federal

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technical corrections and clarifications of March 18, 2010; and USEPA's December 20, 2010 technical corrections to the Eligible Academic Entity Laboratory Waste Accumulation Rule. The amendments include a number of non-substantive corrections and clarifications added by the Board. Among the corrections is the removal of obsolete provisions relating to the former federal Performance Track Program.

Tables appear in the Board's opinion and order of August 18, 2011 in docket R11-2/R11-16 (consolidated) that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the August 18, 2011 opinion and order in docket R11-2/R11-16 (consolidated).

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).

- 16) Information and questions regarding these adopted amendments shall be adopted to:

Please reference consolidated docket R11-2/R11-16 (consolidated) and direct inquiries to the following person:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
312-814-6924

Request copies of the Board's opinion and order of August 18, 2011 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted 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
722.142	Exception Reporting
722.143	Additional Reporting
722.144	Special Requirements for Generators of between 100 and 1,000 kilograms per month

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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: ~~TRANSFRONTIER~~ 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	<del>Tracking</del> <u>Movement</u> Document
722.185	Contracts
722.186	Provisions Relating to Recognized Traders
722.187	Reporting and Recordkeeping
722.189	OECD Waste Lists

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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, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10

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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. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL

**Section 722.110 Purpose, Scope, and Applicability**

- a) This Part establishes standards for generators of hazardous waste.
- b) A generator must use 35 Ill. Adm. Code 721.105(c) and (d) to determine the applicability of provisions of this Part that are dependent on calculations of the quantity of hazardous waste generated per month.
- c) A generator that treats, stores, or disposes of a hazardous waste on-site must comply only with the following Sections of this Part with respect to that waste: Section 722.111, for determining whether or not the generator has a hazardous waste; Section 722.112, for obtaining an USEPA identification number; Section 722.140(c) and (d), for recordkeeping; Section 722.143, for additional reporting; and Section 722.170, for farmers, if applicable.
- d) Any person that exports or imports a waste hazardous waste that is subject to the hazardous waste manifesting requirements of the Part or the universal waste manifesting requirements of 35 Ill. Adm. Code 733 under U.S. national procedures to or from the countries listed in Section 722.158(a)(1) for recovery must comply with Subpart H of this Part.



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BOARD NOTE: USEPA used identical language in corresponding 40 CFR 262.10(d), 262.58(a), and 262.80(a) to define when a waste is considered hazardous under U.S. national procedures. The Board has chosen to create the term “waste hazardous under U.S. national procedures”; to add a definition in Section 722.181, the centralized listing of definitions for Subpart H of this Part; and to replace USEPA’s defining language in this subsection (a) with a cross-reference to the definition in Section 722.181.

- e) Any person that imports hazardous waste into the United States must comply with the generator standards of this Part.
- f) A farmer that generates waste pesticides that are hazardous waste and which complies with Section 722.170 is not required to comply with other standards in this Part or 35 Ill. Adm. Code 702, 703, ~~724 through 725, 727, or 728, 733, or 739~~ with respect to such pesticides.
- g) A person that generates a hazardous waste, as defined by 35 Ill. Adm. Code 721, is subject to the compliance requirements and penalties prescribed in Title VIII and XII of the Environmental Protection Act if that person does not comply with this Part.
- h) An owner or operator that initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this Part.
- i) A person responding to an explosives or munitions emergency in accordance with 35 Ill. Adm. Code 724.101(g)(8)(A)(iv) or (g)(8)(D) or 35 Ill. Adm. Code 725.101(c)(11)(A)(iv) or (c)(11)(D) and 35 Ill. Adm. Code 703.121(a)(4) or (c) is not required to comply with the standards of this Part.
- j) This subsection corresponds with 40 CFR 262.10(j), a provision that relates only to facilities in the Commonwealth of Massachusetts. This statement maintains structural consistency with USEPA rules.
- k) This subsection corresponds with 40 CFR 262.10(k), a provision that relates only to facilities in the Commonwealth of Massachusetts. This statement maintains structural consistency with USEPA rules.

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- 1) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of Subpart K of this Part are not subject to the requirements set forth in subsections (l)(1) and (l)(2) of this Section, except as specifically otherwise provided in Subpart K of this Part. For purposes of this subsection (l), the terms “laboratory” and “eligible academic entity” shall have the meanings given them in Section 722.300.
  - 1) The requirements of Section 722.111, for a large quantity generator, or Section 722.134(c), for a small quantity generator; and
  - 2) The conditions of 35 Ill. Adm. Code 721.105(b), for a conditionally exempt small quantity generator.

BOARD NOTE: The provisions of Section 722.134 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of Section 722.134 only apply to an owner or operator that is shipping hazardous waste which it generated at that facility. A generator that treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in 35 Ill. Adm. Code 702, 703, 724 through 728, 733, and 739.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**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

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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 724 through 728, and 733, ~~and 739~~ for possible exclusions or restrictions pertaining to the management of the specific waste.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: THE MANIFEST

**Section 722.123 Use of the Manifest**

- a) The generator shall do the following:
  - 1) Sign the manifest certification by hand;
  - 2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest;
  - 3) Retain one copy, in accordance with Section 722.140(a); and
  - 4) Send one copy of the manifest to the Agency within two working days.
- b) The generator must give the transporter the remaining copies of the manifest.
- c) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this Section to the owner or operator of the designated receiving facility, if that facility is in the United States, or to the last water (bulk shipment) transporter to handle the waste in the United States, if the waste is exported by water. Copies of the manifest are not required for each transporter.

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- d) For rail shipments of hazardous waste within the United States that originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this Section to the following persons:
- 1) The next non-rail transporter, if any;
  - 2) The designated receiving facility, if the waste is transported solely by rail;  
or
  - 3) The last rail transporter to handle the waste in the United States, if the waste is exported by rail.

BOARD NOTE: See Section 723.120(e) and (f) for special provisions for rail or water (bulk shipment) transporters.

- e) For shipments of hazardous waste to a designated receiving facility in an authorized state that has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated receiving facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated receiving facility.
- f) For rejected shipments of hazardous waste or container residues contained in non-empty containers that the designated facility has returned to the generator (following the procedures of 35 Ill. Adm. Code 724.172(f) or 725.172(f)), the generator must do each of the following:
- 1) The generator must sign the hazardous waste manifest (USEPA Form 8700-22) as follows:
    - A) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
    - B) Item 18c of the original manifest if the original manifest is used for the returned shipment;
  - 2) The generator must provide a copy of the manifest to the transporter;

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- 3) Within 30 days after delivery of the rejected shipment or container residues contained in non-empty containers, the generator must send a copy of the manifest to the designated facility that returned the shipment to the generator; and
- 4) The generator must retain a copy of each manifest at the generator's site for at least three years from the date of delivery.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: PRE-TRANSPORT REQUIREMENTS

**Section 722.134 Accumulation Time**

- a) Except as provided in subsection (d), (e), (f), (g), (h), or (i) of this Section, a generator is exempt from all the requirements in Subparts G and H of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.211 and 725.214, and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the following conditions are fulfilled:
  - 1) The waste is placed in or on one of the following types of units, and the generator complies with the applicable requirements:
    - A) In containers, and the generator complies with Subparts I, AA, BB, and CC of 35 Ill. Adm. Code 725;
    - B) In tanks, and the generator complies with Subparts J, AA, BB, and CC of 35 Ill. Adm. Code 725, except 35 Ill. Adm. Code 725.297(c) and 725.300;
    - C) On drip pads, and the generator complies with Subpart W of 35 Ill. Adm. Code 725 and maintains the following records at the facility:
      - i) A description of the procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

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- ii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; or
- D) In containment buildings, and the generator complies with Subpart DD of 35 Ill. Adm. Code 725 (has placed its Professional Engineer (PE) certification that the building complies with the design standards specified in 35 Ill. Adm. Code 725.1101 in the facility's operating record prior to the date of initial operation of the unit). The owner or operator must maintain the following records at the facility:
- i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respect to the 90 day limit, and documentation that the procedures are complied with; or
  - ii) Documentation that the unit is emptied at least once every 90 days;

BOARD NOTE: The Board placed the "in addition" hanging subsection that appears in the federal rules after 40 CFR 262.34(a)(1)(iv)(B) in the introduction to subsection (a) of this Section.

- 2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
  - 3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and
  - 4) The generator complies with the requirements for owners or operators in Subparts C and D of 35 Ill. Adm. Code 725, ~~and~~ with 35 Ill. Adm. Code 725.116, and with all applicable requirements in 35 Ill. Adm. Code 728.107(a)(5).
- b) A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in 35 Ill. Adm. Code 721.131

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or 721.133(e) in a calendar month, that accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility. Such a generator is subject to the requirements of 35 Ill. Adm. Code ~~724, and 725, and 727~~ and the permit requirements of 35 Ill. Adm. Code 702, 703, and 705, unless the generator has been granted an extension of the 90-day period. If hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances, the generator may seek an extension of up to 30 days by means of a variance or provisional variance, pursuant to Sections 35(b), 36(c), and 37(b) of the Environmental Protection Act [415 ILCS 5/35(b), 36(c), and 37(b)] and 35 Ill. Adm. Code 180 (Agency procedural regulations).

- c) Accumulation near the point of generation.
- 1) A generator may accumulate as much as 55 gallons (208 ℓ) of hazardous waste or one quart of acutely hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e) in containers at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process generating the waste without a permit or interim status and without complying with subsection (a) or (d) of this Section, provided the generator does the following:
    - A) The generator complies with 35 Ill. Adm. Code 725.271, 725.272, and 725.273(a); and
    - B) The generator marks the containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
  - 2) A generator that accumulates either hazardous waste or acutely hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e) in excess of the amounts listed in subsection (c)(1) of this Section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with subsection (a) of this Section or other applicable provisions of this Chapter. During the three day period the generator must continue to comply with subsection (c)(1) of this Section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

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- d) A generator that generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that the following conditions are fulfilled:
- 1) The quantity of waste accumulated on-site never exceeds 6,000 kilograms;
  - 2) The generator complies with the requirements of Subpart I of 35 Ill. Adm. Code 725 (except 35 Ill. Adm. Code 725.276 and 725.278);
  - 3) The generator complies with the requirements of 35 Ill. Adm. Code 725.301;
  - 4) The generator complies with the requirements of subsections (a)(2) and (a)(3) of this Section, with Subpart C of 35 Ill. Adm. Code 725, and with all applicable requirements in 35 Ill. Adm. Code ~~728.107(a)(5)~~ 268; and
  - 5) The generator complies with the following requirements:
    - A) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in subsection (d)(5)(D) of this Section. The employee is the emergency coordinator.
    - B) The generator must post the following information next to the telephone:
      - i) The name and telephone number of the emergency coordinator;
      - ii) Location of fire extinguishers and spill control material and, if present, fire alarm; and
      - iii) The telephone number of the fire department, unless the facility has a direct alarm.



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- C) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.
- D) The emergency coordinator or designee must respond to any emergencies that arise. The following are applicable responses:
  - i) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;
  - ii) In the event of a spill, contain the flow of hazardous waste to the extent possible and, as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil; and
  - iii) In the event of a fire, explosion, or other release that could threaten human health outside the facility, or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using its 24-hour toll free number 800-424-8802).
- E) A report to the National Response Center pursuant to subsection (d)(5)(D)(iii) of this Section must include the following information:
  - i) The name, address, and USEPA identification number (Section 722.112 of this Part) of the generator;
  - ii) The date, time, and type of incident (e.g., spill or fire);
  - iii) The quantity and type of hazardous waste involved in the incident; the extent of injuries, if any; and
  - iv) The estimated quantity and disposition of recoverable materials, if any.

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BOARD NOTE: The Board has codified 40 CFR 262.34(d)(5)(iv)(C)(1) through (d)(5)(iv)(C)(5) as subsections (d)(5)(E)(i) through (d)(5)(E)(iv) because Illinois Administrative Code codification requirements do not allow the use of a fifth level of subsection indents.

- e) A generator that generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and that must transport the waste or offer the waste for transportation over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status, provided that the generator complies with the requirements of subsection (d) of this Section.
- f) A generator that generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and that accumulates hazardous waste in quantities exceeding 6,000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if the generator must transport the waste or offer the waste for transportation over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 35 Ill. Adm. Code 724, ~~and 725~~, and 727 and the permit requirements of 35 Ill. Adm. Code 703, unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period. If hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances, the generator may seek an extension of up to 30 days by means of variance or provisional variance pursuant to Sections 35(b), 36(c), and 37(b) of the Environmental Protection Act [415 ILCS 5/35(b), 36(c), and 37(b)].
- g) A generator that generates 1,000 kilograms or greater of hazardous waste per calendar month which also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days, without a permit or without having interim status provided that the generator fulfills the following conditions:
  - 1) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants

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entering F006 or otherwise released to the environment prior to its recycling;

- 2) The F006 waste is legitimately recycled through metals recovery;
- 3) No more than 20,000 kilograms of F006 waste is accumulated on-site at any one time; and
- 4) The F006 waste is managed in accordance with the following conditions:
  - A) The F006 waste is placed in one of the following containing devices:
    - i) In containers and the generator complies with the applicable requirements of Subparts I, AA, BB, and CC of 35 Ill. Adm. Code 725;
    - ii) In tanks and the generator complies with the applicable requirements of Subparts J, AA, BB, and CC of 35 Ill. Adm. Code 725, except 35 Ill. Adm. Code 725.297(c) and 725.300; or
    - iii) In containment buildings, and the generator complies with Subpart DD of 35 Ill. Adm. Code 725 and has placed its professional engineer certification that the building complies with the design standards specified in 35 Ill. Adm. Code 725.1101 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the records listed in subsection (g)(4)(F) of this Section at the facility;
  - B) In addition, such a generator is exempt from all the requirements in Subparts G and H of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.211 and 725.214;
  - C) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

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- D) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and
- E) The generator complies with the requirements for owners or operators in Subparts C and D of 35 Ill. Adm. Code 725, with 35 Ill. Adm. Code 725.116, and with 35 Ill. Adm. Code 728.107(a)(5).
- F) Required records for a containment building:
  - i) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or
  - ii) Documentation that the unit is emptied at least once every 180 days.

BOARD NOTE: The Board has codified 40 CFR 262.34(g)(4)(i)(C)(1) and (g)(4)(i)(C)(2) as subsections (g)(4)(F)(i) and (g)(4)(F)(ii) because Illinois Administrative Code codification requirements do not allow the use of a fifth level of subsection indents.

- h) A generator that generates 1,000 kilograms or greater of hazardous waste per calendar month, which also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and which must transport this waste or offer this waste for transportation over a distance of 200 miles or more for off-site metals recovery may accumulate F006 waste on-site for more than 90 days, but not more than 270 days, without a permit or without having interim status if the generator complies with the requirements of subsections (g)(1) through (g)(4) of this Section.
- i) A generator accumulating F006 in accordance with subsections (g) and (h) of this Section that accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste or offer this waste for transportation over a distance of 200 miles or more) or which accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility,

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and such a generator is subject to the requirements of 35 Ill. Adm. Code 724, ~~and 725, and 727~~ and the permit requirements of 35 Ill. Adm. Code 702 and 703, unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit.

- 1) On a case-by-case basis, the Agency must grant a provisional variance that allows an extension of the accumulation time up to an additional 30 days pursuant to Sections 35(b), 36(c), and 37(b) of the Act [415 ILCS 5/35(b), 36(c), and 37(b)] if it finds that the F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances.
  - 2) On a case-by-case basis, the Agency must grant a provisional variance pursuant to Sections 35(b), 36(c), and 37(b) of the Act [415 ILCS 5/35(b), 36(c), and 37(b)] that allows an exception to the 20,000 kilogram accumulation limit if the Agency finds that more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances.
  - 3) A generator must follow the procedure of 35 Ill. Adm. Code 180 (Agency procedural rules) when seeking a provisional variance under subsection (i)(1) or (i)(2) of this Section.
- j) ~~A member of the federal National Environmental Performance Track program that generates 1,000 kg or greater of hazardous waste per month (or one kilogram or more of acute hazardous waste) may accumulate hazardous waste on-site without a permit or interim status for an extended period of time, provided that the following conditions are fulfilled: This subsection (j) corresponds with 40 CFR 262.34(j), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, 92, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.~~
- 1) ~~The generator accumulates the hazardous waste for no more than 180 days, or for no more than 270 days if the generator must transport the waste (or offer the waste for transport) more than 200 miles from the generating facility;~~

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- 2) ~~The generator first notifies USEPA Region 5 and the Agency in writing of its intent to begin accumulation of hazardous waste for extended time periods under the provisions of this Section. Such advance notice must include the following information:~~
- A) ~~The name and USEPA identification number of the facility and specification of when the facility will begin accumulation of hazardous wastes for extended periods of time in accordance with this Section;~~
  - B) ~~A description of the types of hazardous wastes that will be accumulated for extended periods of time and the units that will be used for such extended accumulation;~~
  - C) ~~A statement that the facility has made all changes to its operations; procedures, including emergency preparedness procedures; and equipment, including equipment needed for emergency preparedness, that will be necessary to accommodate extended time periods for accumulating hazardous wastes; and~~
  - D) ~~If the generator intends to accumulate hazardous wastes on-site for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under 35 Ill. Adm. Code 702 and 703, federal 40 CFR 270, or the corresponding regulations of a sister state to receive these wastes is not available within 200 miles of the generating facility;~~
- 3) ~~The waste is managed in the following types of units:~~
- A) ~~Containers, in accordance with the applicable requirements of Subparts I, AA, BB, and CC of 35 Ill. Adm. Code 725 and 35 Ill. Adm. Code 724.275;~~
  - B) ~~Tanks, in accordance with the requirements of Subparts J, AA, BB, and CC of 35 Ill. Adm. Code 725, except for Sections 725.297(e) and Section 725.300;~~
  - C) ~~Drip pads, in accordance with Subpart W of 35 Ill. Adm. Code 725; or~~

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- ~~D) Containment buildings, in accordance with Subpart DD of 35 Ill. Adm. Code 725;~~
- 4) ~~The quantity of hazardous waste that is accumulated for extended time periods at the facility does not exceed 30,000 kg;~~
- 5) ~~The generator maintains the following records at the facility for each unit used for extended accumulation times:~~
- ~~A) A written description of procedures to ensure that each waste volume remains in the unit for no more than 180 days (or 270 days, as applicable), a description of the waste generation and management practices at the facility showing that they are consistent with the extended accumulation time limit, and documentation that the procedures are complied with; or~~
- ~~B) Documentation that the unit is emptied at least once every 180 days (or 270 days, if applicable);~~
- 6) ~~Each container or tank that is used for extended accumulation time periods is labeled or marked clearly with the words "Hazardous Waste," and for each container the date upon which each period of accumulation begins is clearly marked and visible for inspection;~~
- 7) ~~The generator complies with the requirements for owners and operators in Subparts C and D of 35 Ill. Adm. Code 725, 35 Ill. Adm. Code 725.116, and 35 Ill. Adm. Code 728.107(a)(5). In addition, such a generator is exempt from all the requirements in Subparts G and H of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.211 and 725.214;~~
- 8) ~~The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants released to the environment prior to its recycling, treatment, or disposal; and~~
- 9) ~~The generator includes the following information with its federal National Environmental Performance Track Annual Performance Report, which must be submitted to the USEPA Region 5 and the Agency:~~

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- A) ~~Information on the total quantity of each hazardous waste generated at the facility that has been managed in the previous year according to extended accumulation time periods;~~
- B) ~~Information for the previous year on the number of off-site shipments of hazardous wastes generated at the facility, the types and locations of destination facilities, how the wastes were managed at the destination facilities (e.g., recycling, treatment, storage, or disposal), and what changes in on-site or off-site waste management practices have occurred as a result of extended accumulation times or other pollution prevention provisions of this Section;~~
- C) ~~Information for the previous year on any hazardous waste spills or accidents occurring at extended accumulation units at the facility, or during off-site transport of accumulated wastes; and~~
- D) ~~If the generator intends to accumulate hazardous wastes on-site for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under 35 Ill. Adm. Code 702 and 703, federal 40 CFR 270, or the corresponding regulations of a sister state to receive these wastes is not available within 200 miles of the generating facility.~~

~~BOARD NOTE: The National Environmental Performance Track program is operated exclusively by USEPA. USEPA established the program in 2000 (see 65 Fed. Reg. 41655 (July 6, 2000)) and amended it in 2004 (see 69 Fed. Reg. 27922 (May 17, 2004)). USEPA confers membership in the program on application of interested and eligible entities. Information about the program is available from a website maintained by USEPA: [www.epa.gov/performance-track](http://www.epa.gov/performance-track).~~

- k) ~~If the Agency finds that hazardous wastes must remain on-site at a federal National Environmental Performance Track member facility for longer than the 180 days (or 270 days, if applicable) allowed under subsection (j) of this Section due to unforeseen, temporary, and uncontrollable circumstances, it must grant an extension to the extended accumulation time period of up to 30 days on a case-by-case basis by a provisional variance pursuant to Sections 35(b), 36(e), and 37(b) of the Act [415 ILCS 5/35(b), 36(e), and 37(b)]. This subsection (k) corresponds~~



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with 40 CFR 262.34(k), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, 12992, and note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.

- 1) If a generator that is a member of the federal National Environmental Performance Track program withdraws from the National Environmental Performance Track program or if USEPA Region 5 terminates a generator's membership, the generator must return to compliance with all otherwise applicable hazardous waste regulations as soon as possible, but no later than six months after the date of withdrawal or termination. This subsection (l) corresponds with 40 CFR 262.34(l), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, 12992, and note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.
  
- m) A generator that sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and which later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of 35 Ill. Adm. Code 724.172 or 725.172 may accumulate the returned waste on-site in accordance with subsections (a) and (b) or (d), (e), and (f) of this Section, depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must sign the appropriate of the following:
  - 1) Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
  - 2) Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART D: RECORDKEEPING AND REPORTING

**Section 722.142 Exception Reporting**

- a) Generators of greater than 1,000 kilograms of hazardous waste in a calendar month.
  - 1) A generator of ~~greater than~~ 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e) in a calendar month, that does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days ~~of~~ after the date the waste was accepted by the initial transporter must contact the transporter or the owner or operator of the designated facility to determine the status of the hazardous waste.
  - 2) A generator of ~~greater than~~ 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e) in a calendar month, must submit an Exception Report to the Agency if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days ~~of~~ after the date the waste was accepted by the initial transporter. The Exception Report must include the following documents:
    - A) A legible copy of the manifest for which the generator does not have a confirmation of delivery; and
    - B) A cover letter signed by the generator or the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the result of those efforts.
- b) A generator of greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month that does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days after the date the waste was accepted by the initial transporter must submit a legible copy of the manifest to the Agency, with some indication that the generator has not received confirmation of delivery.

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BOARD NOTE: The submission need be only a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the returned copy was not received.

- c) A generator must comply with the requirements of subsection (a) or (b) of this Section, as applicable, when a designated facility has forwarded a rejected shipment of hazardous waste or container residues contained in non-empty containers to an alternate facility using a new manifest (following the procedures of 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or 725.172(e)(1) through (e)(6)). For purposes of generator compliance with subsection (a) or (b) of this Section, when a designated facility forwards a shipment of rejected waste to an alternate facility, the following requirements apply:
- 1) The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility; and
  - 2) The 35-, 45-, or 60-day timeframes begin on the date that the initial transporter accepts the waste from the designated facility for shipment to the alternate facility.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: EXPORTS OF HAZARDOUS WASTE

**Section 722.158 International Agreements**

- a) ~~Any person that exports or imports waste hazardous waste subject to either the manifest requirements of this Part or the universal waste management standards of 35 Ill. Adm. Code 733 which is shipped under U.S. national procedures, as defined in Section 722.181, to or from any of the designated member countries of the Organisation for Economic Co-operation and Development (OECD), as defined-listed in subsection (a)(1) of this Section, for purposes of recovery is subject to the requirements of Subpart H of this Part. The requirements of Subparts E and F of this Part do not apply where Subpart H of this Part applies.~~
- 1) For the purposes of this Subpart E, the designated OECD countries are Australia, Austria, Belgium, the Czech Republic, Denmark, Finland,

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France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, the Republic of Korea, the Slovak Republic, ~~South Korea~~, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

- 2) Only for the purposes of ~~transit under this~~ Subpart E of this Part, Canada and Mexico are considered OECD member countries.

BOARD NOTE: USEPA used identical language in 40 CFR 262.10(d), corresponding 262.58(a), and 262.80(a) to define when a waste is considered hazardous under U.S. national procedures. The Board has chosen to create the term “waste hazardous under U.S. national procedures”; add a definition in Section 722.181, the centralized listing of definitions for Subpart H of this Part; and replace USEPA’s defining language in this subsection (a) with a cross-reference to the definition in Section 722.181.

- b) Any person that exports hazardous waste to or imports hazardous waste from any designated OECD member country for purposes other than recovery (e.g., incineration, disposal, etc.), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of Subparts E and F of this Part, and that person is not subject to the requirements of Subpart H of this Part.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART F: IMPORTS OF HAZARDOUS WASTE

**Section 722.160 Imports of Hazardous Waste**

- a) Any person that imports hazardous waste from a foreign country into the United States must comply with the requirements of this Part and the special requirements of this Subpart F.
- b) When importing hazardous waste, a person must meet all the requirements of Section ~~722.120(a)~~ 722.120 for the manifest, except that the following information items are substituted:
- 1) In place of the generator’s name, address, and USEPA identification number, the name and address of the foreign generator and the importer’s name, address, and USEPA identification number must be used.

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- 2) In place of the generator's signature on the certification statement, the United States importer or the importer's agent must sign and date the certification and obtain the signature of the initial transporter.
- c) A person that imports hazardous waste must obtain the manifest form as provided in Section 722.121.
- d) In the International Shipments block of the manifest, the importer must check the import box and enter the point of entry (city and State) into the United States.
- e) The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to USEPA in accordance with 35 Ill. Adm. Code 724.171(a)(3) or 725.171(a)(3), as appropriate.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

**Section 722.180 Applicability**

- a) ~~The requirements of this Subpart H apply to imports and exports of wastes that are considered waste hazardous under U.S. national procedures and which are destined for recovery operations in any of the countries listed in Section 722.158(a)(1), as defined in Section 722.181. A waste is considered hazardous under U.S. national procedures if it meets the definition of hazardous waste in 35 Ill. Adm. Code 721.103 and it is subject to either the manifesting requirements in Subpart B of this Part or to the universal waste management standards of 35 Ill. Adm. Code 733.~~

BOARD NOTE: USEPA used identical language in 40 CFR 262.10(d), 262.58(a), and corresponding 262.80(a) to define when a waste is considered hazardous under U.S. national procedures. The Board has chosen to create the term "waste hazardous under U.S. national procedures"; add a definition in Section 722.181, the centralized listing of definitions for Subpart H of this Part; and replace USEPA's defining language in this subsection (a) with a cross-reference to the definition in Section 722.181.

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- b) Any person (~~notifier, consignee, importer, exporter,~~ or recovery facility operator) that mixes two or more wastes (including hazardous and non-hazardous wastes) or which otherwise subjects two or more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under this Subchapter c and any ~~notifier-exporter~~ duties under this Subpart H, as applicable.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.181 Definitions**

The following definitions apply to this Subpart H and to other provisions within this Part 722 as specifically indicated:

~~“Amber list controls”~~ “Amber control procedures” means the controls listed in ~~section IV of the annex to the OECD Council Decision C(92)39/Final~~ Section D of Annex A (“Amber Control Procedure”) to OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111(a).  
BOARD NOTE: The Board added this definition.

~~“Amber list Amber waste”~~ means a waste listed in ~~the OECD “Amber List of Wastes,” appendix 4 to the OECD Council Decision C(92)39/Final~~ Appendix 4 (“List of Wastes Subject to the Amber Control Procedure”) to Annex A and in Annex C (“OECD Consolidated List of Wastes Subject to the Amber Control Procedure”) to OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111(a).  
BOARD NOTE: The Board added this definition.

~~“Competent authorities authority”~~ means the regulatory authority or authorities of countries concerned ~~countries~~ having jurisdiction over ~~transfrontier trans-~~ boundary movements of wastes destined for recovery operations.

~~“Concerned countries”~~ “Countries concerned” means the ~~exporting and importing~~ OECD member countries of export or import and any OECD member countries of transit. Use of the singular “concerned country” is contemplated within this definition where the text refers only a single country.

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“Consent” means the specific or general consent or approval obtained pursuant to Section 722.183 from the competent authority of the country of export (for export from that country), the country of transit (for transit through that country), or the country of import (for import into that country), as required under the applicable of the Amber control procedures or red control procedures.

BOARD NOTE: The Board added this definition.

~~“Consignee” means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing country.~~

“Country of export” means any designated OECD member country listed in Section 722.158(a)(1) from which a trans-boundary movement of hazardous waste is planned to be initiated or is initiated.

“Country of import” means any designated OECD member country listed in Section 722.158(a)(1) to which a trans-boundary movement of hazardous waste is planned or takes place for the purpose of submitting the waste to recovery operations in that country.

~~“Country of transit” means any designated OECD member country listed in Section 722.158(a)(1) and or (a)(2) other than the exporting country of export or importing country of import across which a transfrontier trans-boundary movement of wastes-waste is planned to be initiated or takes place.~~

~~“Exporting country” means any designated OECD member country in Section 722.158(a)(1) from which a transfrontier movement of wastes is planned or has commenced.~~

“Exporter” means the person under the jurisdiction of the country of export that has, or will have at the time the planned trans-boundary movement commences, possession or other forms of legal control of the waste and that proposes trans-boundary movement of hazardous waste for the ultimate purpose of submitting it to recovery operations. When the United States is the country of export, exporter is interpreted to mean a person domiciled in the United States.

~~“Green list controls”~~“Green control procedures” means the controls listed in section III of the annex to the OECD Council Decision C(92)39/Final Section C of Annex A (“Green Control Procedure”) to OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

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BOARD NOTE: The Board added this definition.

“Green list Green waste” means a waste listed in the OECD “Green List of Wastes,” appendix 3 to the OECD Council Decision C(92)39/Final Appendix 3 (“List of Wastes Subject to the Green Control Procedures”) to Annex A and in Annex B (“OECD Consolidated List of Wastes Subject to the Green Control Procedure”) to OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

BOARD NOTE: The Board added this definition.

“Importer” means the person that is assigned possession or other form of legal control of the waste at the time the waste is received in the country of import.

“Importing country” means any designated OECD country in Section 722.158(a)(1) to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

“Notifier” means the person under the jurisdiction of the exporting country that has, or will have at the time the planned transfrontier movement commences, possession or other forms of legal control of the wastes and that proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the exporting country, notifier is interpreted to mean a person domiciled in the U.S.

“OECD-listed waste” means, for the purposes of this Subpart H, Green waste or Amber waste, as defined in this Section.

BOARD NOTE: USEPA used the term “listed wastes” in 40 CFR 262.82(a)(1) and (a)(2) (2010) (corresponding with 35 Ill. Adm. Code 722.182(a)(1) and (a)(2)), referring to Green waste and Amber waste. The Board changed the term to “OECD-listed waste” and added this definition based on the discussions at 75 Fed. Reg. 1236, 1241, 1247 (Jan. 8, 2010), to distinguish this use in the context of waste export from the common use of the same term to describe waste defined as hazardous under Subpart D of 40 CFR 261 (2010) (corresponding with Subpart D of 35 Ill. Adm. Code 721).

“OECD” means the Organisation for Economic Cooperation and Development.

“OECD area” means all land or marine areas under the national jurisdiction of any designated-OECD member country listed in Section 722.158. When the



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regulations refer to shipments to or from an OECD member country, this means OECD area.

“OECD Guidance Manual” means “Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations,” 2009 (also called “Guidance Manual for the Control of Transboundary Movements of Recoverable Materials” in OECD documents), but only the segments incorporated by reference in 35 Ill. Adm. Code 722.111(a), which set forth the substantive requirements of OECD decision C(2001)107/FINAL, as amended by C(2004)20; C(2005)141 and C(2008)156.

BOARD NOTE: The Board added this definition. Although USEPA conventionally refers to the OECD requirements by the designation “C(2001)107/FINAL,” USEPA incorporated the OECD Guidance Manual by reference for the substance of the OECD requirements. The substance of the OECD requirements requires reference to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention) for full meaning, and the OECD Guidance Manual includes Annexes A through C, which present the full text of OECD decision C(2001)107/FINAL and the Basel Convention. For these reasons, the Board refers directly to the OECD Guidance Manual and incorporates Annexes A through C of the Guidance Manual by reference.

“OECD waste designation” means, for the purposes of this Subpart H, the designation by OECD of waste as Green waste or Amber waste, as defined in this Section.

BOARD NOTE: USEPA used the term “designation of waste type(s) from the appropriate OECD list” in 40 CFR 262.83(d)(12) (2010) (corresponding with 35 Ill. Adm. Code 722.183(d)(12)). The Board changed USEPA’s term to “OECD waste designation” to replace USEPA’s language and added this definition of the created term, interpreting the plain language of 40 CFR 262.83(d)(12) and 262.89(d) (2010) (corresponding with 35 Ill. Adm. Code 722.183(a)(12) and 722.189(d)) to mean Green waste and Amber waste.

“Recognized trader” means a person that, with appropriate authorization of ~~countries concerned~~ countries, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate

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~~transfrontier~~ trans-boundary movements of wastes destined for recovery operations.

“Recovery facility” means ~~an entity~~ a facility that, under applicable domestic law, is operating or is authorized to operate in the ~~importing~~ country of import to receive wastes and to perform recovery operations on them.

“Recovery operations” means activities leading to resource recovery, recycling, reclamation, direct re-use, or alternative uses, ~~as listed in table 2.B of the annex of OECD Council Decision C(88)90/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a), which include the following activities, which include the following types of operations:~~

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy,
- R2 Solvent reclamation or regeneration,
- R3 Recycling or reclamation of organic substances that are not used as solvents,
- R4 Recycling or reclamation of metals and metal compounds,
- R5 Recycling or reclamation of other inorganic materials,
- R6 Regeneration of acids or bases,
- R7 Recovery of components used for ~~pollution control~~ abatement,
- R8 Recovery of components from used catalysts,
- R9 Used oil re-refining or other reuses of previously used oil,
- R10 Land treatment resulting in benefit to agriculture or ecological improvement,
- R11 Uses of residual materials obtained from any of the operations numbered R1 through R10,

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- R12 Exchange of wastes for submission to any of the operations numbered R1 through R11, and
- R13 Accumulation of material intended for any operation in ~~Table 2.B~~ numbered R1 through R12 in this listing.

~~“Red list controls” means the controls listed in section V of the annex to the OECD Council Decision C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a).~~

~~“Red list Red waste” means a waste listed in the OECD “Red List of Wastes,” appendix 5 to the OECD Council Decision C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a).~~

~~“Transfrontier-“Trans-boundary movement” means any shipment movement of wastes destined for recovery operations from an area under the national jurisdiction of one OECD member country to an area under the national jurisdiction of another OECD member country.~~

“Waste hazardous under U.S. national procedures” means, for the purposes of Sections 722.110(d) and 722.159(a) and Subpart H of this Part, a waste that meets the definition of hazardous waste, as set forth in 35 Ill. Adm. Code 721.103, and which is subject to any of the following regulations:

The hazardous waste manifesting requirements of Subpart B of this Part;

The universal waste management standards of 35 Ill. Adm. Code 733, 40 CFR 273, or analogous requirements of a sister state; or

The export requirements in the spent lead-acid battery management standards of Subpart G of 35 Ill. Adm. Code 726, subpart G of 40 CFR 266, or analogous requirements of a sister state.

BOARD NOTE: BOARD NOTE: USEPA used identical language in 40 CFR 262.10(d), 262.58(a), and 262.80(a) to define when a waste is considered hazardous under U.S. national procedures. The Board has chosen to create the term “waste hazardous under U.S. national procedures” for uniform use wherever this type of waste is intended; add a definition in this Section, the centralized listing of definitions for Subpart H of this Part; and replace USEPA’s defining

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language in 40 CFR 262.10(d), 262.58(a), and 262.80(a) with cross-references to this definition.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.182 General Conditions**

- a) Scope. The level of control for exports and imports of waste hazardous under U.S. national procedures, as defined in Section 722.181, is indicated by assignment-designation of the waste to-as either a green, amber, or red list-Green waste or Amber waste and by U.S. national procedures, as such are defined in Section 722.180(a) 722.181. ~~The green, amber, and red lists are incorporated by reference in 35 Ill. Adm. Code 720.111(a).~~
- 1) ~~Green list waste is subject to existing controls normally applied to commercial transactions, except as provided below:~~
- 1) OECD-listed wastes subject to the Green control procedures.
- A) ~~Green list-Green waste that is considered-not waste hazardous under U.S. national procedures, as defined in Section 722.181, is subject to amber list-existing controls normally applied to commercial transactions.~~
- B) ~~Green list-Green waste that is sufficiently contaminated or mixed with amber list waste, such that the waste or waste mixture is considered-waste hazardous under U.S. national procedures, as defined in Section 722.181, is subject to-amber list controls Amber control procedures set forth in this Subpart H.~~
- C) ~~Green list waste that is sufficiently contaminated or mixed with other wastes subject to red list controls, such that the waste or waste mixture is considered hazardous under U.S. national procedures, must be handled in accordance with the red list controls.~~
- 2) OECD-listed wastes subject to the Amber control procedures.

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- 2A) Amber list Amber waste that is considered waste hazardous under U.S. national procedures, as defined in Section 722.180(a) 722.181, is subject to the amber list controls of Amber control procedures set forth in this Subpart H. If amber list waste is sufficiently contaminated or mixed with other wastes subject to red list controls, such that the waste or waste mixture is considered hazardous under U.S. national procedures, the wastes must be handled in accordance with the red list controls.
- B) Amber waste that is waste hazardous under U.S. national procedures, as defined in Section 722.181, is subject to the Amber control procedures within the United States, even if they are imported to or exported from a designated OECD member country listed in Section 722.158(a)(1) that does not consider the waste to be hazardous. In such an event, the responsibilities of the Amber control procedures shift as follows:
- i) For exports of Amber waste from the United States, USEPA has stated that the United States will issue an acknowledgement of receipt and assume other responsibilities of the competent authority of the country of import.
  - ii) For imports of Amber waste into the United States, USEPA has stated that the U.S. recovery facility or importer must assume the obligations associated with the Amber control procedures that normally apply to the exporter, and the United States will assume the obligations associated with the Amber control procedures that normally apply to the country of export.
- C) Amber waste that is not waste hazardous under U.S. national procedures, as defined in Section 722.181, but which is considered hazardous by an OECD member country, is subject to the Amber control procedures in the OECD member country that considers the waste hazardous. All responsibilities of the U.S. importer or exporter shift to the importer or exporter of the OECD member country that considers the waste hazardous unless the parties make other arrangements through contracts.

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- 3) ~~Red list waste that is considered hazardous under U.S. national procedures, as defined in Section 722.180(a), is subject to the red list controls of this Subpart H.~~

~~BOARD NOTE: Some amber list wastes or red list wastes that are subject to Amber control procedures are not listed or otherwise identified as hazardous under RCRA (e.g., polychlorinated biphenyls), and therefore are not subject to the amber list or red list controls. Amber control procedures of this Subpart H. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the Toxic Substances Control Act (42 USC 2601 et seq.)) may restrict certain waste imports or exports. Such These other federal restrictions continue to apply without regard to the applicability or inapplicability of this Subpart H.~~

- 3) Procedures for mixtures of wastes.

- A) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not waste hazardous under U.S. national procedures, as defined in Section 722.181, is subject to the Green control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

BOARD NOTE: USEPA has noted that the law of some OECD member countries may require that mixtures of different Green wastes be subject to the Amber control procedures.

- B) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is waste hazardous under U.S. national procedures, as defined in Section 722.181, is subject to the Amber control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

BOARD NOTE: USEPA has noted that the law of some OECD member countries may require that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of

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two or more Amber wastes be subject to the Amber control procedures.

- 4) Waste that is not yet assigned to a list-OECD-listed waste is eligible for ~~transfrontier~~ trans-boundary movements, as follows:
  - A) If such waste is ~~considered waste~~ hazardous under U.S. national procedures, as defined in Section ~~722.180(a)~~ 722.181, ~~this the waste is subject to the red list controls; or~~ Amber control procedures.
  - B) If such waste is not ~~considered waste~~ hazardous under U.S. national procedures, as defined in Section ~~722.180(a)~~ 722.181, ~~such the waste may move as though it were a green list waste is~~ subject to Green control procedures.
- b) General conditions applicable to ~~transfrontier~~ trans-boundary movements of hazardous waste.
  - 1) The waste must be destined for recovery operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the importing country;
  - 2) The ~~transfrontier~~ trans-boundary movement must be in compliance with applicable international transport agreements; and  
  
BOARD NOTE: These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).
  - 3) Any transit of waste through a non-OECD member country must be conducted in compliance with all applicable international and national laws and regulations.
- c) Provisions relating to re-export for recovery to a third country.
  - 1) Re-export of waste that is subject to the ~~amber list controls~~ Amber control procedures from the ~~U.S.~~ United States, as the ~~importing country of~~

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import, to a third country listed in Section 722.158(a)(1) may occur only after a ~~notifier~~ an exporter in the U.S. ~~United States~~ provides notification to and obtains consent ~~of from~~ the competent authorities in the third country, the original ~~exporting country of export~~, and ~~new~~ any transit countries. The notification must comply with the notice and consent procedures in Section 722.183 for all countries concerned ~~countries~~ and the original exporting country. The competent authorities of the original exporting country, as well as the competent authorities of all other concerned countries, have 30 days to object to the proposed movement.

- A) The 30-day period begins once the competent authorities of both the initial ~~exporting country of export~~ and new ~~importing country of import~~ issue Acknowledgments of Receipt of the notification.
- B) The ~~transfrontier-trans-boundary~~ movement may commence if no objection has been lodged after the 30-day period has passed or immediately after written consent is received from all relevant OECD ~~importing and transit countries of import and countries of transit~~.

~~2) Re-export of waste that is subject to the red list controls from the original importing country to a third country listed in Section 722.158(a)(1) may occur only following notification of the competent authorities of the third country, the original exporting country, and new transit countries by a notifier in the original importing country in accordance with Section 722.183. The transfrontier movement may not proceed until receipt by the original importing country of written consent from the competent authorities of the third country, the original exporting country, and new transit countries.~~

~~32)~~ In the case of re-export of ~~amber list waste or red list~~ Amber waste to a country other than those listed in Section 722.158(a)(1), notification to and consent of the competent authorities of the original OECD member country of export and any OECD member countries of transit is required as specified in ~~subsections~~ subsection (c)(1) and (e)(2) of this Section in addition to compliance with all international agreements and arrangements to which the first importing OECD member country is a party and all applicable regulatory requirements for exports from the first ~~importing country of import~~.



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- d) Duty to return or re-export wastes subject to the Amber control procedures. When a trans-boundary movement of wastes subject to the Amber control procedures cannot be completed in accordance with the terms of the contract or the consents and alternative arrangements cannot be made to recover the waste in an environmentally sound manner in the country of import, the waste must be returned to the country of export or re-exported to a third country. The provisions of subsection (c) of this Section apply to any shipments to be re-exported to a third country. The following provisions apply to shipments to be returned to the country of export, as appropriate:
- 1) Return from the United States to the country of export. The U.S. importer must inform USEPA at the address specified in Section 722.183(b)(1)(A) of the need to return the shipment. USEPA stated that it will then inform the competent authorities of the countries of export and transit, citing the reasons for returning the waste. The U.S. importer must complete the return within 90 days from the time USEPA informs the country of export of the need to return the waste, unless informed in writing by USEPA of another timeframe agreed to by the concerned OECD member countries. If the return shipment will cross any transit country, the return shipment may only occur after USEPA provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the U.S. importer.
  - 2) Return from the country of import to the United States. The U.S. exporter must provide for the return of the hazardous waste shipment within 90 days from the time the country of import informs USEPA of the need to return the waste or such other period of time as the concerned OECD member countries agree. The U.S. exporter must submit an exception report to USEPA in accordance with Section 722.187(b).
- e) Duty to return wastes subject to the Amber control procedures from a country of transit. When a trans-boundary movement of wastes subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover these wastes in an environmentally sound manner, the waste must be returned to the country of export. The following provisions apply, as appropriate:

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- 1) Return from the United States (as country of transit) to the country of export. The U.S. transporter must inform USEPA at the specified address in Section 722.183(b)(1)(A) of the need to return the shipment. USEPA will then inform the competent authority of the country of export, citing the reasons for returning the waste. The U.S. transporter must complete the return within 90 days from the time USEPA informs the country of export of the need to return the waste, unless informed in writing by USEPA of another timeframe agreed to by the concerned OECD member countries.
- 2) Return from the country of transit to the United States (as country of export). The U.S. exporter must provide for the return of the hazardous waste shipment within 90 days from the time the competent authority of the country of transit informs USEPA of the need to return the waste or such other period of time as the concerned OECD member countries agree. The U.S. exporter must submit an exception report to USEPA in accordance with Section 722.187(b).
- f) Requirements for wastes destined for and received by facilities engaged in R12 and R13 recovery operations. The trans-boundary movement of wastes destined for an R12 or R13 recovery operation must comply with all Amber control procedures for notification and consent, as set forth in Section 722.183, and for the movement document, as set forth in Section 722.184. Additional responsibilities of a facility engaged in an R12 or R13 recovery operation include the following:
  - 1) Indicating in the notification document the foreseen recovery facility or facilities where the subsequent R1 through R11 recovery operation will take place or may take place.
  - 2) Within three days after the receipt of the wastes by a facility engaged in R12 or R13 recovery operation, the facility owner or operator must return a signed copy of the movement document to the exporter and to the competent authorities of the country of export and the country of import. The facility owner or operator must retain the original of the movement document for three years.
  - 3) As soon as possible, but no later than 30 days after the completion of the R12 or R13 recovery operation and no later than one calendar year

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following the receipt of the waste, an R12 or R13 recovery operation facility owner or operator must send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to USEPA, by mail, email without digital signature followed by mail, or fax followed by mail, at the following address:

Office of Enforcement and Compliance Assurance  
Office of Federal Activities, International Compliance Assurance  
Division (2254A)  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460.

- 4) When an a facility engaged in an R12 or R13 recovery operation delivers wastes for recovery to a facility engaged in an R1 through R11 recovery operation located in the country of import, the owner or operator of the R12 or R13 recovery operation facility must obtain, as soon as possible, but no later than one calendar year following delivery of the waste, a certification from the R1 through R11 recovery operation that recovery of the wastes at that facility has been completed. The owner or operator of the R12 or R13 recovery operation facility must promptly transmit the applicable certification to the competent authorities of the country of import and the country of export, identifying the trans-boundary movements to which the certification pertains.
- 5) When an R12 or R13 recovery operation facility delivers wastes for recovery to an R1 through R11 recovery operation facility located as follows, the indicated requirements apply:
- A) In the initial country of export, Amber control procedures apply, including a new notification;
- B) In a third country other than the initial country of export, Amber control procedures apply, with the additional requirement that the competent authority of the initial country of export must also be notified of the trans-boundary movement.
- g) Laboratory analysis exemption. The trans-boundary movement of an Amber waste is exempt from the Amber control procedures if the Amber waste is in

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certain quantities and destined for laboratory analysis to assess its physical or chemical characteristics or determine its suitability for recovery operations. The quantity of such Amber waste must be determined by the minimum quantity reasonably needed to adequately perform the analysis in each particular case, but in no case may the amount of Amber waste exceed 25 kilograms (kg). Amber waste destined for laboratory analysis must still be appropriately packaged and labeled.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.183 Notification and Consent**

- a) Applicability. Consent must be obtained from the competent authorities of the relevant OECD ~~importing country of import and country of transit countries~~ prior to exporting hazardous waste destined for recovery operations subject to this Subpart H. Hazardous wastes subject to ~~amber list controls~~ Amber control procedures are subject to the requirements of subsection (b) of this Section; ~~hazardous wastes subject to red list controls are subject to the requirements of subsection (c) of this Section;~~ and wastes ~~that are not identified on any list OECD-listed waste~~ are subject to the requirements of subsection (~~d~~c) of this Section.
- b) ~~Amber list Amber wastes. The export from the U.S.~~ Export of hazardous waste from the United States, as described in Section 722.180(a), that is ~~amber list waste subject to the Amber control procedures~~ is prohibited unless the notification and consent requirements of subsection (b)(1) or subsection (b)(2) of this Section are met.
  - 1) Transactions requiring specific consent.
    - A) Notification. At least 45 days prior to commencement of ~~the transfrontier~~ each trans-boundary movement, the ~~notifier exporter~~ must provide written notification in English of the proposed ~~transfrontier trans-boundary~~ movement to the Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and the Illinois Environmental Protection Agency, Bureau of Land, Division of Land Pollution Control, P.O. Box 19276, Springfield, IL 62794-9276, with the words

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“Attention: OECD Export Notification” prominently displayed on the envelope. This notification must include all of the information identified in subsection (ed) of this Section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, ~~and the same USEPA hazardous waste codes, and the Amber wastes~~ are to be sent periodically to the same recovery facility by the same ~~notifier~~ exporter, the ~~notifier~~ exporter may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year. Even when a general notification is used for multiple shipments, each shipment still must be accompanied by its own movement document pursuant to Section 722.184.

- B) Tacit consent. If no objection has been lodged by any country concerned ~~country~~ (i.e., ~~exporting country of export, importing country of import, or country of transit countries~~) to a notification provided pursuant to subsection (b)(1)(A) of this Section within 30 days after the date of issuance of the ~~Acknowledgment~~ Acknowledgement of Receipt of notification by the competent authority of the ~~importing country of import, the transfrontier trans-boundary~~ movement may commence. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.
- C) Written consent. If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than 30 days, the ~~transfrontier trans-boundary~~ movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one calendar year after the date of that country’s consent unless otherwise specified; renotification and renewal of each expired consent is required for exports after that date.
- 2) ~~Shipments~~ Trans-boundary movements to facilities pre-approved by the competent authorities of the importing countries to accept specific wastes for recovery.

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- A) Notification. ~~The notifier-exporter~~ must provide USEPA and the Agency a notification that contains all of the information identified in subsection (ed) of this Section in English, at least 10 days in advance of commencing shipment to a ~~pre-approved-preapproved~~ facility. The notification ~~should-must~~ indicate that the recovery facility is ~~pre-approved~~ preapproved, and may apply to a single specific shipment or to multiple shipments as described in subsection (b)(1)(A) of this Section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and the Illinois Environmental Protection Agency, Bureau of Land, Division of Land Pollution Control, P.O. Box 19276, Springfield, IL 62794-9276, with the words “~~Attention: OECD Export Notification—Pre-approved Facility~~” prominently displayed on the envelope. General notifications that cover multiple shipments as described in subsection (b)(1)(A) of this Section may cover a period of up to three years. Even when a general notification is used for multiple shipments, each shipment still must be accompanied by its own movement document pursuant to Section 722.184.
- B) ~~Shipments-Exports to pre-approved facilities may commence-take place after the elapse of seven working days from the issuance of an Acknowledgement of Receipt of the notification required in subsection (b)(1)(A) of this Section has been received by the competent-authorities of all concerned countries authority of the country of import, unless the notifier-exporter has received information indicating that the competent authorities-authority of one or more-any country concerned countries objects-has objected to the shipment.~~
- e) ~~Red list wastes. The export from the U.S. of hazardous waste, as described in Section 722.180(a), that is red list waste is prohibited unless notice is given pursuant to subsection (b)(1)(A) of this Section and the notifier receives written consent from the importing country and any transit countries prior to commencement of the transfrontier movement.~~

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- dc) ~~Unlisted wastes.~~—Waste that is not ~~green list~~ Green waste, ~~amber list or Amber waste, or red list.~~ Waste destined for recovery operations that is not Green waste or Amber waste, as defined in Section 722.181, and but which is considered waste hazardous under U.S. national procedures, as defined in Section 722.180(a) 722.181, is subject to the notification and consent requirements established for red list wastes the Amber control procedures in accordance with subsection (eb) of this Section. ~~Unlisted wastes~~ Waste destined for recovery operations, that are has not been assigned to the OECD Green and Amber lists incorporated by reference in 35 Ill. Adm. Code 720.111(a), and which is not waste considered hazardous under U.S. national procedures, as defined in Section 722.180(a) 722.181, are not subject to amber list or red list controls when exported or imported the Green control procedures.
- ed) Notification information. Notifications submitted under this Section must include the following information:
- 1) ~~Serial~~ The serial number or other accepted identifier of the notification form document;
  - 2) ~~Notifier~~ The exporter's name and USEPA identification number (if applicable), address, and telephone and telefax numbers, fax number, and email address;
  - 3) ~~Importing~~ The importing recovery facility facility's name, address, telephone and telefax numbers, fax number, e-mail address, and technologies employed;
  - 4) ~~Consignee~~ The importer's name (if not the owner or operator of the recovery facility), address, and telephone and telefax numbers, fax number, and e-mail address; whether the consignee importer will engage in waste exchange or storage recovery operation R12 or waste accumulation recovery operation R13 prior to delivering the waste to the final recovery facility; and identification of recovery operations to be employed at the final recovery facility;
  - 5) ~~Intended transporters~~ The intended transporters' or their agents agents' address, telephone, fax, and e-mail address;

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- 6) ~~Country~~ The country of export and relevant competent authority and point of departure;
- 7) ~~Countries~~ The countries of transit and relevant competent authorities and points of entry and departure;
- 8) ~~Country~~ The country of import and relevant competent authority and point of entry;
- 9) ~~Statement~~ A statement of whether the notification is a single notification or a general notification. If general, include the period of validity requested;
- 10) ~~Date~~ The dates foreseen for commencement of ~~transfrontier movement~~ trans-boundary movements;
- 11) The means of transport envisaged;
- 1112) ~~Designation of waste types from the appropriate list (e.g., amber list waste or red list waste and waste list code),~~ The OECD waste designation (e.g., amber list Green waste or red list Amber waste and waste list code) for each waste type, descriptions a description of each waste type, the estimated total quantity of each waste type, the USEPA hazardous waste code for each waste type, and the United Nations number for each waste type; and
- 13) The specification of the recovery operation, as defined in Section 722.181; and
- 1214) ~~Certification/Declaration~~ A certification and declaration signed by the ~~notifier exporter~~ that states as follows:

“I certify that the above information is complete and correct to the best of my knowledge. I also certify that ~~legally enforceable~~ legally enforceable written contractual obligations have been entered into, and that any applicable insurance or other financial guarantees are or must be in force covering the ~~transfrontier trans-~~ boundary movement.



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Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_ ”

BOARD NOTE: ~~The U.S.-USEPA~~ does not currently require financial assurance; ~~however~~ for these waste shipments. However, U.S. exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.

- e) Certificate of recovery. As soon as possible, but no later than 30 days after the completion of recovery or one calendar year following receipt of the waste, whichever comes first, the U.S. recovery facility must send a certificate of recovery to the exporter and to the competent authorities of the countries of export and import. The recovery facility owner or operator must send the certificate of recovery by mail. Alternatively, the recovery facility owner or operator may send the certificate by e-mail without a digital signature or by fax, so long as the sending is immediately followed by mail. The certificate of recovery must include a signed, written, and dated statement which affirms that the waste materials were recovered in the manner agreed to by the parties to the contract required under Section 722.185.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.184 ~~Tracking~~ Movement Document**

- a) All U.S. parties subject to the contract provisions of Section 722.185 must ensure that a ~~tracking movement~~ document meeting the conditions of subsection (b) of this Section accompanies each ~~transfrontier shipment~~ trans-boundary movement of wastes subject to ~~amber list or red list controls~~ Amber control procedures from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored or ~~exchanged~~ sorted by the ~~consignee~~ importer prior to shipment to the final recovery facility, except as provided in this subsection (a).
- 1) For shipments of hazardous waste within the ~~U.S.-United States~~ solely by water (bulk shipments only), the generator must forward the ~~tracking movement~~ document with the manifest to the last water (bulk shipment)

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transporter to handle the waste in the ~~U.S.~~ United States if exported by water (in accordance with the manifest routing procedures at Section 722.123(c)).

- 2) For rail shipments of hazardous waste within the ~~U.S.~~ United States that originate at the site of generation, the generator must forward the ~~tracking movement~~ document with the manifest (in accordance with the routing procedures for the manifest in Section 722.123(d)) to the next non-rail transporter, if any, or the last rail transporter to handle the waste in the ~~U.S.~~ United States if exported by rail.
- b) The ~~tracking movement~~ document must include all information required under Section 722.183 (for notification) ~~and as well as~~ the following information:
- 1) The date ~~shipment~~ movement commenced;
  - 2) The name (if not ~~notifier the exporter~~), address, ~~and telephone and telefax,~~ fax numbers, ~~and e-mail~~ of the primary exporter;
  - 3) The company name and USEPA identification number of all transporters;
  - 4) Identification (license, registered name, or registration number) of means of transport, including types of packaging envisaged;
  - 5) Any special precautions to be taken by transporters;
  - 6) A certification or declaration signed by ~~notifier the exporter~~ that no objection to the shipment has been lodged as follows:  
  
“I certify that the above information is complete and correct to the best of my knowledge. I also certify that ~~legally enforceable~~ legally enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are or must be in force covering the ~~transfrontier~~ trans-boundary movement, and that (delete sentences that are not applicable).”

“1. All necessary consents have been received;”;

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“2. The shipment is directed at a recovery facility within the OECD area and no objection has been received from any of the concerned countries within the 30 day tacit consent period;” or

“3. The shipment is directed at a recovery facility pre-authorized for that type of waste within the OECD area, such an authorization has not been revoked, and no objection has been received from any of the concerned countries.”

~~(delete sentences that are not applicable)~~

“Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_”; and

- 7) The appropriate signatures for each custody transfer (e.g., transporter, ~~consignee importer~~, and owner or operator of the recovery facility).
- c) ~~Notifiers-Exporters~~ also must comply with the special manifest requirements of Section 722.154(a), (b), (c), (e), and (i) and ~~consignees-importers~~ must comply with the import requirements of Subpart F of this Part.
- d) Each U.S. person that has physical custody of the waste from the time the movement commences until it arrives at the recovery facility must sign the ~~tracking movement~~ document (e.g., transporter, ~~consignee importer~~, and owner or operator of the recovery facility).
- e) Within three working days after the receipt of imports subject to this Subpart H, the owner or operator of the U.S. recovery facility must send signed copies of the ~~tracking movement~~ document to the ~~notifier exporter~~, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and to the competent authorities of the ~~exporting country of export and country of transit countries~~. If the concerned U.S. recovery facility is an R12 or R13 recovery operation facility, as defined in Section 722.181, the facility owner or operator must retain the original of the tracking movement document for three years.

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(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.185 Contracts**

- a) ~~Transfrontier~~ Trans-boundary movements of hazardous wastes subject to ~~amber or red-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 ~~notifier-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-arrangement~~ 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 ~~notifier-exporter~~ and the competent authorities of the ~~exporting and importing countries~~ 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

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- 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 their return to the original country of export the return of wastes and, as the case may be, shall provide the notification for re-export.
- d) Contracts must specify that the consignee 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 concerned 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 notifier-exporter to ascertain and comply with such requirements; in some cases, transporters a transporter or consignees 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. notifiers, consignees, exporter, importer, or recovery facilities 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 120 will be treated as confidential and will be disclosed by the Agency only as provided in 35 Ill. Adm. Code 120.

BOARD NOTE: Although the U.S.-United States does not require routine submission of contracts at this time, OECD Council Decision C(92)39/FINAL

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Guidance Manual allows ~~members~~ 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 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.186 Provisions Relating to Recognized Traders**

- a) A recognized trader that takes physical custody of a waste and conducts recovery operations (including storage prior to recovery) is acting as the owner or operator of a recovery facility and must be so authorized in accordance with all applicable federal laws.
- b) A recognized trader acting as a ~~notifier~~ an exporter or ~~consignee~~ importer for ~~transfrontier~~ trans-boundary shipments of waste must comply with all the ~~notifier~~ exporter or ~~consignee~~ importer requirements of this Subpart H.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.187 Reporting and Recordkeeping**

- a) Annual reports. For all waste movements subject to this Subpart H, persons (e.g., ~~notifiers~~ exporters, recognized traders, etc.) that meet the definition of primary exporter in Section 722.151 or which initiate the movement documentation pursuant to Section 722.184 must file an annual report with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460 and the Illinois Environmental Protection Agency, Bureau of Land, Division of Land Pollution Control, P.O. Box 19276, Springfield, IL 62794, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter or the person that initiates the movement document under Section 722.184 is required to file an annual report for waste exports that are not covered under this Subpart H, the person filing may include all export information in one report provided the following information on exports of waste

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destined for recovery within the designated OECD member countries is contained in a separate Section.); Such reports must include all of the following information:

- 1) The USEPA identification number, name, and mailing and site address of the ~~notifier~~ exporter filing the report;
- 2) The calendar year covered by the report;
- 3) The name and site address of each final recovery facility;
- 4) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the USEPA hazardous waste number (from Subpart C or D of 35 Ill. Adm. Code 721); the OECD waste designation of waste types from the OECD waste list and applicable waste code from the OECD lists, as described in the annex to OECD Council Decision C(88)90/Final, as amended by C(94)152/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a), as defined in Section 722.181, the USDOT hazard class; the name and USEPA identification number (where applicable) for each transporter used; the total amount of hazardous waste shipped pursuant to this Subpart H; and the number of shipments pursuant to each notification;
- 5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100 kilograms (kg) but less than 1,000 kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to Section 722.141:
  - A) A description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated; and
  - B) A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and
- 6) A certification signed by the person acting as primary exporter or initiator of the movement document under Section 722.184 that states as follows:

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“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.”

- b) Exception reports. Any person that meets the definition of primary exporter in Section 722.151 or which initiates the movement document under Section 722.184 must file with USEPA and the Agency an exception report in lieu of the requirements of Section 722.142 (if applicable) if any of the following occurs:
- 1) The person has not received a copy of the ~~tracking movement~~ documentation signed by the transporter stating point of departure of the waste from the United States within 45 days from the date it was accepted by the initial transporter;
  - 2) Within 90 days from the date the waste was accepted by the initial transporter, the ~~notifier exporter~~ has not received written confirmation from the recovery facility that the hazardous waste was received; or
  - 3) The waste is returned to the United States.

BOARD NOTE: The primary exporter must file the exception report required by this subsection (b) with USEPA at the following address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- c) Recordkeeping.
- 1) ~~Persons~~ A person that ~~meet~~ meets the definition of primary exporter in Section 722.151 or which initiates the movement document under Section 722.184 must keep the following records:
    - A) A copy of each notification of intent to export and all written consents obtained from the competent authorities of ~~concerned~~



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countries concerned, for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

- B) A copy of each annual report, for a period of at least three years from the due date of the report; ~~and~~
- C) A copy of any exception reports and a copy of each confirmation of delivery (i.e., ~~tracking documentation~~ movement document) sent by the recovery facility to the ~~notifier~~ exporter, for at least three years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable; ~~and~~
- D) A copy of each certificate of recovery sent by the recovery facility to the exporter, for at least three years from the date that the recovery facility completed processing the waste shipment.

- 2) The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by USEPA or the Agency.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.189 OECD Waste Lists**

- a) General. For the purposes of this Subpart H, a waste is considered hazardous under U.S. national procedures, and hence subject to this Subpart H, if the following is true of the waste:
  - 1) The waste meets the federal definition of hazardous waste in 35 Ill. Adm. Code 721.103; and
  - 2) The waste is subject to ~~either the hazardous waste manifesting requirements of Subpart B of this Part or the universal waste management standards of 35 Ill. Adm. Code 733.~~ any of the following requirements:
    - A) The hazardous waste manifesting requirements of Subpart B of this Part, those of corresponding subpart B of 40 CFR 262, or those of a sister state that are analogous to subpart B of 40 CFR 262;

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- B) The universal waste management standards of 35 Ill. Adm. Code 733, those of corresponding 40 CFR 273, or those of a sister state that are analogous to 40 CFR 273;
- C) The export requirements in the spent lead-acid battery management standards of Subpart G of 35 Ill. Adm. Code 726, those of corresponding subpart G of 40 CFR 266, or those of a sister state that are analogous to the export requirements in subpart G of 40 CFR 266.
- b) If a waste is hazardous under subsection (a) of this Section ~~and it is amber list waste or red list waste~~, it is subject to ~~either the amber list or red list controls~~ the Amber control procedures, regardless of whether it is Amber waste, as appropriate defined in Section 722.181.
- ~~e) If a waste is hazardous under subsection (a) of this Section and it is not amber list or red list waste, it is subject to the red list controls.~~
- ~~d~~c) The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in Section 722.182.
- ~~ed~~) This subsection (ed) corresponds with 40 CFR 262.89(e), which incorporates the OECD ~~amber, green, and red lists~~ Guidance Manual by reference. This statement maintains structural consistency with the corresponding federal regulations.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

**Section 722.300 Definitions**

The following definitions apply for the purposes of this Subpart K:

“Central accumulation area” means an on-site hazardous waste accumulation area subject to Section 722.134(a) and (b), for a large quantity generator; or Section

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722.134(d) through (f), for a small quantity generator; ~~or Section 722.134(j) and (k) for a Performance Track member.~~ A central accumulation area at an eligible academic entity that chooses to be subject to this Subpart K must also comply with Section 722.311 when accumulating unwanted material or hazardous waste.

“College or University” means a private or public post-secondary degree-granting academic institution that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

BOARD NOTE: The Department of Education maintains on-line lists of accrediting agencies on the Internet at the following address: [www.ed.gov/admins/finaid/accred/accreditation\\_pg6.html#NationallyRecognized](http://www.ed.gov/admins/finaid/accred/accreditation_pg6.html#NationallyRecognized).

“Eligible academic entity” means a college or university, a non-profit research institute that is owned by or which has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or which has a formal written affiliation agreement with a college or university.

“Formal written affiliation agreement” for a non-profit research institute means a written document that establishes a relationship between institutions for the purposes of research or education and which is signed by an authorized representative, as that term is defined in 35 Ill. Adm. Code 720.110, from each institution. A relationship that exists on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. “Formal written affiliation agreement” for a teaching hospital means a “master affiliation agreement” and “program letter of agreement,” as these terms are defined in the document entitled “Accreditation Council for Graduate Medical Education: Glossary of Terms,” incorporated by reference in 35 Ill. Adm. Code 720.111, with an accredited medical program or medical school.

“Laboratory” means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are laboratories within the meaning of this definition. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also laboratories within the meaning of this definition.

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“Laboratory clean-out” means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or which have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor or occupant. A regularly scheduled removal of unwanted material, as required by Section 722.308, does not qualify as a laboratory clean-out within the meaning of this definition.

“Laboratory worker” means a person who handles chemicals or unwanted material in a laboratory. This may include, but is not limited to, any member of faculty or staff, a post-doctoral fellow, an intern, a researcher, a technician, a supervisor or manager, or a principal investigator. A person does not need to be paid or otherwise compensated for his or her work in the laboratory to be considered a laboratory worker. An undergraduate or graduate student in a supervised classroom setting is not a laboratory worker.

“Non-profit research institute” means an organization that conducts research as its primary function and which files as a nonprofit organization under ~~Section~~section 501(c)(3) of the federal tax code (26 USC 501(c)(3)).

“Reactive acutely hazardous unwanted material” means an unwanted material that is one of the acutely hazardous commercial chemical products listed in 35 Ill. Adm. Code 721.133(e) for reactivity.

“Teaching hospital” means a hospital that trains students to become physicians, nurses, or other health or laboratory personnel.

“Trained professional” means a person who has completed the applicable RCRA training requirements of 35 Ill. Adm. Code 725.116, for a large quantity generator, or who is knowledgeable about normal operations and emergencies in accordance with Section 722.134(d)(5)(C), for a small quantity generator or conditionally exempt small quantity generator. A trained professional may be an employee of the eligible academic entity or a contractor or vendor who meets the requisite training requirements.

“Unwanted material” means any chemical, mixtures of chemicals, products of experiments, or other material from a laboratory that is no longer needed, wanted,

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or usable in the laboratory and which is destined for hazardous waste determination by a trained professional. Unwanted material includes reactive acutely hazardous unwanted material, material that may eventually be determined not to be solid waste pursuant to 35 Ill. Adm. Code 721.102, or a hazardous waste pursuant to 35 Ill. Adm. Code 721.103. If an eligible academic entity elects to use another equally effective term in lieu of “unwanted material,” as allowed by Section 722.306(a)(1)(A), the equally effective term will have the same meaning, and the material designated by that term will be subject to the same requirements as “unwanted material” under this Subpart K.

“Working container” means a small container (i.e., two gallons (7.6 l) or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.303 Notice of Election into the Subpart K Requirements**

- a) If an eligible academic entity elects to become subject to the requirements of this Subpart K, it must notify the Agency and USEPA Region 5 of this election in writing using the RCRA Subtitle C Site Identification Form (USEPA Form 8700-12) for all the laboratories that the eligible academic entity owns or operates under the same USEPA identification number. If the eligible academic entity is a conditionally exempt small quantity generator (CESQG) that does not have a USEPA identification number, the CESQG must notify the Agency and USEPA Region 5 that it has made this choice for all the laboratories that the eligible academic entity owns or operates that are onsite, as defined by 35 Ill. Adm. Code 720.110. If the eligible academic entity has multiple USEPA identification numbers, or if it is a CESQG with multiple sites, it must submit a separate notification (using USEPA Form 8700-12) for each USEPA identification number (or site, for a CESQG) that it elects to become subject to the requirements of this Subpart K. The eligible academic entity must submit USEPA Form 8700-12 to the Agency and USEPA Region 5 before it begins operating under this Subpart K.

BOARD NOTE: Corresponding 40 CFR 262.203(a) requires the use of the “RCRA Subtitle C Site Identification Form (EPA Form 8700-12).” This is the title that appears on the face of the form. The title on the pre-pended instructions for USEPA Form 8700-12, however, is “Notification of RCRA Subtitle C Activity.” USEPA Form 8700-12 is available from the Agency, Bureau of Land

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(217-782-6762). It is also available on-line for download in PDF file format: [www.epa.gov/osw/inforesources/data/form8700/8700-12.pdf](http://www.epa.gov/osw/inforesources/data/form8700/8700-12.pdf). Only the November 2009 version of USEPA Form 8700-12 includes a segment relating to the alternative standards for eligible academic entities.

- b) When submitting USEPA Form 8700-12, the eligible academic entity must, at a minimum, fill out each of the following fields on the form:

“1. Reason for Submittal”

“2. Site EPA ID Number” (except for a conditionally exempt small quantity generator)

“3. Site Name”

“4. Site Location Information”

“5. Site Land Type”

“6. North American Industry Classification System (NAICS) Code(s) for the Site”

BOARD NOTE: See the definition of “NAICS Code” in 35 Ill. Adm. Code 720.110.

“7. Site Mailing Address”

“8. Site Contact Person”

“9. Operator and Legal Owner of the Site”

“10. Type of Regulated Waste Activity”

“13. Certification”

- c) An eligible academic entity must keep a copy of USEPA Form 8700-12, as filed with the Agency pursuant to subsection (a) of this Section, on file at the eligible academic entity for as long as its laboratories are subject to this Subpart K.

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- d) A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this Subpart K.
- e) A non-profit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the non-profit research institute for as long as its laboratories are subject to this Subpart K.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.304 Notice of Withdrawal from the Subpart K Requirements**

- a) If an eligible academic entity elects to no longer remain subject to the requirements of this Subpart K for all the laboratories that the eligible academic entity owns or operates under the same USEPA identification number, it elects to instead comply with the requirements set forth in Sections 722.111 and 722.134(c), which are the generally applicable standards for small quantity generators and large quantity generators. An eligible academic entity must notify the Agency and USEPA Region 5 in writing of this election using the USEPA Form 8700-12. If the eligible academic entity is a CESQG that does not have a USEPA identification number, it must notify the Agency and USEPA Region 5 that it has elected to withdraw from the requirements of this Subpart K for all of the laboratories that it owns or operates that are on-site. The eligible academic entity that is a CESQG that makes this election must comply with the conditional exemption in 35 Ill. Adm. Code 721.105(b). If the eligible academic entity has multiple USEPA identification numbers, or if it is a CESQG with multiple sites, it must submit a separate notification (using USEPA Form 8700-12) for each USEPA identification number (or site, for a CESQG) that it elects to withdraw from the requirements of this Subpart K. The eligible academic entity that chooses to withdraw from the requirements of this Subpart K must submit USEPA Form 8700-12 to the Agency and USEPA Region 5 before it begins operating under the requirements set forth in Sections 722.111 and 722.134(c), which are the generally applicable standards for small quantity generators and large quantity generators, or 35 Ill. Adm. Code 721.105(b), which are the generally applicable standards for conditionally exempt small quantity generators.

BOARD NOTE: Corresponding 40 CFR 262.204(a) requires the use of the “RCRA Subtitle C Site Identification Form (EPA Form 8700-12).” This is the

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title that appears on the face of the form. The title on the pre-pended instructions for USEPA Form 8700-12, however, is "Notification of RCRA Subtitle C Activity." USEPA Form 8700-12 is available from the Agency, Bureau of Land (217-782-6762). It is also available on-line for download in PDF file format: [www.epa.gov/osw/inforesources/data/form8700/8700-12.pdf](http://www.epa.gov/osw/inforesources/data/form8700/8700-12.pdf). Only the November 2009 version of USEPA Form 8700-12 includes a segment relating to the alternative standards for eligible academic entities.

- b) When submitting USEPA Form 8700-12, the eligible academic entity must, at a minimum, fill out each of the following fields on the form:

"1. Reason for Submittal"

"2. Site EPA ID Number" (except for a conditionally exempt small quantity generator)

"3. Site Name"

"4. Site Location Information"

"5. Site Land Type"

"6. North American Industry Classification System (NAICS) Code(s) for the Site"

BOARD NOTE: See the definition of "NAICS Code" in 35 Ill. Adm. Code 720.110.

"7. Site Mailing Address"

"8. Site Contact Person"

"9. Operator and Legal Owner of the Site"

"10. Type of Regulated Waste Activity"

"13. Certification"



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- c) An eligible academic entity must keep a copy of USEPA Form 8700-12, as filed with the Agency pursuant to subsection (a) of this Section, on file at the eligible academic entity for three years after the date of the notification of withdrawal.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.306 Container Standards in the Laboratory**

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this Section.

- a) Labeling: The eligible academic entity must label containers of unwanted material as follows:
- 1) The following information must be affixed or attached to the container:
    - A) The words “unwanted material,” or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan; and
    - B) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to, the following:
      - i) The name of the chemicals; or
      - ii) The type or class of chemicals, such as organic solvents or halogenated organic solvents.
  - 2) The following information may be affixed or attached to the container, but must be associated with the container if not attached to it:
    - A) The date on which the unwanted material first began accumulating in the container; and
    - B) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid waste and a hazardous waste and to assign the proper hazardous waste codes to

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the material, pursuant to Section 722.111. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid waste and hazardous waste include, but are not limited to, the following:

- i) The name or description of the chemical contents or the composition of the unwanted material or, if known, the product of the chemical reaction;
  - ii) Whether the unwanted material has been used or is unused; and
  - iii) A description of the manner in which the chemical was produced or processed, if applicable.
- b) Management of Containers in the Laboratory. An eligible academic entity must properly manage containers of unwanted material in the laboratory in a way that assures safe storage of the unwanted material and which prevents leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following actions:
- 1) Containers must be maintained and kept in good condition, and damaged containers must be replaced, overpacked, or repaired;
  - 2) Containers must be compatible with their contents, in order to avoid reactions between the contents and the container; and they must be made of, or lined with, material that is compatible with the unwanted material, so that the container's integrity is not impaired; and
  - 3) Containers must be kept closed at all times, except under the following circumstances:
    - A) A container may be open when adding, removing, or ~~consolidating~~ bulking unwanted material;
    - B) A working container may be open until the end of the procedure, until the end of the work shift, or until it is full, whichever comes

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first, at which time either the working container must be closed or its contents emptied into a separate container that is then closed; or

- C) A container may be open when venting of a container is necessary for either of the following reasons:
- i) It is necessary for the proper operation of laboratory equipment, such as with inline collection of unwanted materials from high performance liquid chromatographs; or
  - ii) It is necessary to prevent dangerous situations, such as a build-up of extreme pressure.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.312 Hazardous Waste Determination at an On-Site Treatment, Storage, or Disposal Facility**

When an eligible academic entity makes the hazardous waste determination, pursuant to Section 722.111, for unwanted material at an on-site interim status or permitted treatment, storage, or disposal facility, it must fulfill the following requirements:

- a) A trained professional must accompany all unwanted material that is transferred from the laboratory to an on-site interim status or permitted treatment, storage, or disposal facility;
- b) All unwanted material removed from the laboratory must be taken directly from the laboratory to the on-site interim status or permitted treatment, storage, or disposal facility;
- c) The unwanted material becomes subject to the terms of the eligible academic entity's hazardous waste permit or interim status as soon as it arrives at the on-site treatment, storage, or disposal facility;
- d) A trained professional must determine, pursuant to Section 722.111, if the unwanted material is a hazardous waste within four calendar days after the unwanted material has arrived at an on-site interim status or permitted treatment, storage or disposal facility; and

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- e) If the unwanted material is a hazardous waste, the eligible academic entity must fulfill the following requirements:
- 1) It must write the words “hazardous waste” on the container label that is affixed or attached to the container (~~or on the label that is affixed or attached to the container, if that is preferred~~) within four calendar days after the unwanted material has arrived at the on-site interim status or permitted treatment, storage, or disposal facility and before the hazardous waste may be removed from that facility;
  - 2) It must write the appropriate hazardous waste codes on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site;
  - 3) It must count the hazardous waste toward the amount used to determine the eligible academic entity’s generator status, pursuant to 35 Ill. Adm. Code 721.105(c) and (d) in the calendar month that the hazardous waste determination was made; and
  - 4) It must manage the hazardous waste according to all applicable hazardous waste regulations.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 722.314 Laboratory Management Plan**

An eligible academic entity must develop and retain a written Laboratory Management Plan, or revise an existing written plan. The Laboratory Management Plan is a site-specific document that describes how the eligible academic entity will manage unwanted materials in compliance with this Subpart K. An eligible academic entity may write one Laboratory Management Plan for all of the laboratories that it owns which have opted into this Subpart K, even if the laboratories are located at sites with different USEPA identification numbers. The Laboratory Management Plan must contain two parts, with a total of the nine elements identified in subsections (a) and (b) of this Section. In Part I of its Laboratory Management Plan, an eligible academic entity must describe its procedures for each of the elements listed in subsection (a) of this Section. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of its Laboratory Management Plan. In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best management practices for

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each of the elements listed in subsection (b) of this Section. The specific actions taken by an eligible academic entity to implement each element in Part II of its Laboratory Management Plan may vary from the procedures described in the eligible academic entity's Laboratory Management Plan, without constituting a violation of this Subpart K. An eligible academic entity may include additional elements and best management practices in Part II of its Laboratory Management Plan if it so chooses.

- a) The eligible academic entity must implement and comply with the specific provisions of Part I of its Laboratory Management Plan. In Part I of its Laboratory Management Plan, an eligible academic entity must include the following information:
  - 1) Part I must describe procedures for container labeling in accordance with Section 722.306(a) ~~including, as follows:~~
    - A) Identification whether the eligible academic entity will use the term "unwanted material" on the containers in the laboratory. If not, identification of an equally effective term that the eligible academic entity will consistently use in lieu of "unwanted material." The equally effective term, if used, has the same meaning as the term "unwanted material," and the material is subject to the same requirements as if it were called "unwanted material"; and
    - B) Identification of the manner in which information that is "associated with the container" will be imparted.
  - 2) Identification whether the eligible academic entity will comply with Section 722.308(a)(1) or (a)(2) for regularly scheduled removals of unwanted material from the laboratory.
- b) In Part II of its Laboratory Management Plan, an eligible academic entity must include the following information:
  - 1) Description of its intended best practices for container labeling and management, ~~including how the eligible academic entity will manage containers used for in-line collection of unwanted materials, such as with high performance liquid chromatographs and other laboratory equipment~~ (see the required standards at Section 722.306);

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- 2) Description of its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards at Section 722.307(a));
- 3) Description of its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards at Section 722.307(d)(1));
- 4) Description of its intended best practices for removing unwanted material from the laboratory, including the following:
  - A) For regularly scheduled removals, a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards at Section 722.308(a)(1) and (a)(2));
  - B) For removals when maximum volumes are exceeded, the following:
    - i) Description of the eligible academic entity's intended best practices for removing unwanted materials from the laboratory within 10 calendar days after the date on which unwanted materials have exceeded their maximum volumes (see the required standards at Section 722.308(d)); and
    - ii) Description of its intended best practices for communicating that unwanted materials have exceeded their maximum volumes;
- 5) Description of its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at Sections 722.111 and 722.309 through 722.312);
- 6) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in Section 722.313, including the following:

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- A) Procedures for conducting laboratory clean-outs (see the required standards at Section 722.313(a)(1) through (a)(3)); and
  - B) Procedures for documenting laboratory clean-outs (see the required standards at Section 722.313(a)(4));
- 7) Description of the eligible academic entity's intended best practices for emergency prevention, including the following information:
- A) Procedures for emergency prevention, notification, and response that are appropriate to the hazards in the laboratory;
  - B) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date or as they degrade;
  - C) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date or as they degrade; and
  - D) Procedures for the timely characterization of unknown chemicals.
- c) An eligible academic entity must make its Laboratory Management Plan available to laboratory workers, students, or any others at the eligible academic entity who may request it.
- d) An eligible academic entity must review and revise its Laboratory Management Plan as needed.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)