

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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3) Section Numbers:

Proposed Action:

JUN 28 2011

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

STATE OF ILLINOIS
Pollution Control Board

4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27.

5) A complete description of the subjects and issues involved: The amendments to Part 722 are a single segment of the docket 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 Proposed Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the

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Board's opinion and order of June 2, 2011, proposing amendments in docket R11-2/R11-16, which opinion and order is 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 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 June 2, 2011 in docket R11-2/R11-16 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 June 2, 2011 opinion and order in docket R11-2/R11-16.

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

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

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- 11) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of statewide policy objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R11-2/R11-16 and be addressed to:

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

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

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

Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

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

- 13) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste.

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- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.
- 14) Regulatory agenda on which this rulemaking was summarized: July 2010 and December 2010

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

EXEMPT

JCAR350722-1109484r01

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE G: WASTE DISPOSAL
3 CHAPTER I: POLLUTION CONTROL BOARD
4 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS
5

6 PART 722
7 STANDARDS APPLICABLE TO
8 GENERATORS OF HAZARDOUS WASTE
9

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Pollution Control Board

10 SUBPART A: GENERAL
11

12 Section
13 722.110 Purpose, Scope, and Applicability
14 722.111 Hazardous Waste Determination
15 722.112 USEPA Identification Numbers
16 722.113 Electronic Reporting
17

18 SUBPART B: THE MANIFEST
19

20 Section
21 722.120 General Requirements
22 722.121 Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests
23 722.122 Number of Copies
24 722.123 Use of the Manifest
25 722.127 Waste Minimization Certification
26

27 SUBPART C: PRE-TRANSPORT REQUIREMENTS
28

29 Section
30 722.130 Packaging
31 722.131 Labeling
32 722.132 Marking
33 722.133 Placarding
34 722.134 Accumulation Time
35

36 SUBPART D: RECORDKEEPING AND REPORTING
37

38 Section
39 722.140 Recordkeeping
40 722.141 Annual Reporting
41 722.142 Exception Reporting
42 722.143 Additional Reporting
43 722.144 Special Requirements for Generators of between 100 and 1,000 kilograms per

44 month

45

46

SUBPART E: EXPORTS OF HAZARDOUS WASTE

47

48 Section

49 722.150 Applicability

50 722.151 Definitions

51 722.152 General Requirements

52 722.153 Notification of Intent to Export

53 722.154 Special Manifest Requirements

54 722.155 Exception Report

55 722.156 Annual Reports

56 722.157 Recordkeeping

57 722.158 International Agreements

58

59

SUBPART F: IMPORTS OF HAZARDOUS WASTE

60

61 Section

62 722.160 Imports of Hazardous Waste

63

64

SUBPART G: FARMERS

65

66 Section

67 722.170 Farmers

68

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

71

72 Section

73 722.180 Applicability

74 722.181 Definitions

75 722.182 General Conditions

76 722.183 Notification and Consent

77 722.184 ~~Movement~~Tracking Document

78 722.185 Contracts

79 722.186 Provisions Relating to Recognized Traders

80 722.187 Reporting and Recordkeeping

81 722.189 OECD Waste Lists

82

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

86

87	Section	
88	722.300	Definitions
89	722.301	Applicability
90	722.302	Opting into the Subpart K Requirements
91	722.303	Notice of Election into the Subpart K Requirements
92	722.304	Notice of Withdrawal from the Subpart K Requirements
93	722.305	Summary of the Requirements of this Subpart K
94	722.306	Container Standards in the Laboratory
95	722.307	Personnel Training
96	722.308	Removing Unwanted Material from the Laboratory
97	722.309	Hazardous Waste Determination and Removal of Unwanted Material from the
98		Laboratory
99	722.310	Hazardous Waste Determination in the Laboratory
100	722.311	Hazardous Waste Determination at an On-Site Central Accumulation Area
101	722.312	Hazardous Waste Determination at an On-Site Treatment, Storage, or Disposal
102		Facility
103	722.313	Laboratory Clean-Outs
104	722.314	Laboratory Management Plan
105	722.315	Unwanted Material That Is Not Solid Waste or Hazardous Waste
106	722.316	Non-Laboratory Hazardous Waste Generated at an Eligible Academic Entity

107
108 722.APPENDIX A Hazardous Waste Manifest

109
110 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the
111 Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

112
113 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and
114 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.
115 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24,
116 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at
117 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709,
118 effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987;
119 amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12
120 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective
121 December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989;
122 amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at
123 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective
124 October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in
125 R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg.
126 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27,
127 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-
128 10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-
129 3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg.

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

137
 138 SUBPART A: GENERAL

139
 140 **Section 722.110 Purpose, Scope, and Applicability**

- 141
 142 a) This Part establishes standards for generators of hazardous waste.
 143
 144 b) A generator must use 35 Ill. Adm. Code 721.105(c) and (d) to determine the
 145 applicability of provisions of this Part that are dependent on calculations of the
 146 quantity of hazardous waste generated per month.
 147
 148 c) A generator that treats, stores, or disposes of a hazardous waste on-site must
 149 comply only with the following Sections of this Part with respect to that waste:
 150 Section 722.111, for determining whether or not the generator has a hazardous
 151 waste; Section 722.112, for obtaining an USEPA identification number; Section
 152 722.140(c) and (d), for recordkeeping; Section 722.143, for additional reporting;
 153 and Section 722.170, for farmers, if applicable.
 154
 155 d) Any person that exports or imports a waste hazardous under U.S. national
 156 procedures to or from the countries listed in Section 722.158(a)(1) for recovery
 157 must comply with Subpart H of this Part. ~~waste~~ that is subject to the hazardous
 158 waste manifesting requirements of this Part or the universal waste management
 159 standards of 35 Ill. Adm. Code 733, to or from countries listed in Section
 160 722.158(a)(1) for recovery, must comply with Subpart H of this Part.

161
 162 BOARD NOTE: USEPA used identical language in corresponding 40 CFR
 163 262.10(d), 262.58(a), and 262.80(a) to define when a waste is considered
 164 hazardous under U.S. national procedures. The Board has chosen to create the
 165 term "waste hazardous under U.S. national procedures"; add a definition in
 166 Section 722.181, the centralized listing of definitions for Subpart H of this Part;
 167 and replace USEPA's defining language in this subsection (a) with a cross-
 168 reference to the definition in Section 722.181.

- 169
 170 e) Any person that imports hazardous waste into the United States must comply with
 171 the generator standards of this Part.
 172

- 173 f) A farmer that generates waste pesticides that are hazardous waste and ~~that~~which
 174 complies with Section 722.170 is not required to comply with other standards in
 175 this Part or 35 Ill. Adm. Code 702, 703, 724, 725, 727, or ~~through 728, 733, or~~
 176 ~~739~~ with respect to thesesueh pesticides.
 177
- 178 g) A person that generates a hazardous waste, as defined by 35 Ill. Adm. Code 721,
 179 is subject to the compliance requirements and penalties prescribed in Title VIII
 180 and XII of the Environmental Protection Act if that person does not comply with
 181 this Part.
 182
- 183 h) An owner or operator that initiates a shipment of hazardous waste from a
 184 treatment, storage, or disposal facility must comply with the generator standards
 185 established in this Part.
 186
- 187 i) A person responding to an explosives or munitions emergency in accordance with
 188 35 Ill. Adm. Code 724.101(g)(8)(A)(iv) or (g)(8)(D) or 35 Ill. Adm. Code
 189 725.101(c)(11)(A)(iv) or (c)(11)(D) and 35 Ill. Adm. Code 703.121(a)(4) or (c) is
 190 not required to comply with the standards of this Part.
 191
- 192 j) This subsection corresponds with 40 CFR 262.10(j), a provision that relates only
 193 to facilities in the Commonwealth of Massachusetts. This statement maintains
 194 structural consistency with USEPA rules.
 195
- 196 k) This subsection corresponds with 40 CFR 262.10(k), a provision that relates only
 197 to facilities in the Commonwealth of Massachusetts. This statement maintains
 198 structural consistency with USEPA rules.
 199
- 200 l) The laboratories owned by an eligible academic entity that chooses to be subject
 201 to the requirements of Subpart K of this Part are not subject to the requirements
 202 set forth in subsections (l)(1) and (l)(2) of this Section, except as specifically
 203 otherwise provided in Subpart K of this Part. For purposes of this subsection (l),
 204 the terms "laboratory" and "eligible academic entity" shall have the meanings
 205 given them in Section 722.300.
 206
- 207 1) The requirements of Section 722.111, for a large quantity generator, or
 208 Section 722.134(c), for a small quantity generator; and
 209
- 210 2) The conditions of 35 Ill. Adm. Code 721.105(b), for a conditionally
 211 exempt small quantity generator.
 212

213 BOARD NOTE: The provisions of Section 722.134 are applicable to the on-site
 214 accumulation of hazardous waste by generators. Therefore, the provisions of Section
 215 722.134 only apply to an owner or operator that is shipping hazardous waste which it

216 generated at that facility. A generator that treats, stores, or disposes of hazardous waste
217 on-site must comply with the applicable standards and permit requirements set forth in 35
218 Ill. Adm. Code 702, 703, 724 through 728, 733, and 739.

219
220 (Source: Amended at 35 Ill. Reg. _____, effective _____)
221

222 **Section 722.111 Hazardous Waste Determination**
223

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

- 226
- 227 a) The person should first determine if the waste is excluded from regulation under
228 35 Ill. Adm. Code 721.104.
229
 - 230 b) The person should then determine if the waste is listed as a hazardous waste in
231 Subpart D of 35 Ill. Adm. Code 721.
232

233 BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still
234 has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste
235 from the generator's particular facility or operation is not a hazardous waste.
236

- 237 c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not
238 listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator
239 must then determine whether the waste is identified in Subpart C of 35 Ill. Adm.
240 Code 721 by either of the following methods:
241
 - 242 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill.
243 Adm. Code 721, or according to an equivalent method approved by the
244 Board under 35 Ill. Adm. Code 720.121; or
245
 - 246 2) Applying knowledge of the hazard characteristic of the waste in light of
247 the materials or processes used.
248
- 249 d) If the generator determines that the waste is hazardous, the generator must refer to
250 35 Ill. Adm. Code 724 through 728, and 733, ~~and 739~~ for possible exclusions or
251 restrictions pertaining to the management of the specific waste.
252

253 (Source: Amended at 35 Ill. Reg. _____, effective _____)
254

255 **SUBPART B: THE MANIFEST**
256

257 **Section 722.123 Use of the Manifest**
258

- 259 a) The generator shall do the following:
260
261 1) Sign the manifest certification by hand;
262
263 2) Obtain the handwritten signature of the initial transporter and date of
264 acceptance on the manifest;
265
266 3) Retain one copy, in accordance with Section 722.140(a); and
267
268 4) Send one copy of the manifest to the Agency within two working days.
269
270 b) The generator must give the transporter the remaining copies of the manifest.
271
272 c) For shipments of hazardous waste within the United States solely by water (bulk
273 shipments only), the generator must send three copies of the manifest dated and
274 signed in accordance with this Section to the owner or operator of the designated
275 receiving facility, if that facility is in the United States, or to the last water (bulk
276 shipment) transporter to handle the waste in the United States, if the waste is
277 exported by water. Copies of the manifest are not required for each transporter.
278
279 d) For rail shipments of hazardous waste within the United States that originate at
280 the site of generation, the generator must send at least three copies of the manifest
281 dated and signed in accordance with this Section to the following persons:
282
283 1) The next non-rail transporter, if any;
284
285 2) The designated receiving facility, if the waste is transported solely by rail;
286 or
287
288 3) The last rail transporter to handle the waste in the United States, if the
289 waste is exported by rail.
290
291 BOARD NOTE: See Section 723.120(e) and (f) for special provisions for rail or
292 water (bulk shipment) transporters.
293
294 e) For shipments of hazardous waste to a designated receiving facility in an
295 authorized state that has not yet obtained authorization to regulate that particular
296 waste as hazardous, the generator must assure that the designated receiving
297 facility agrees to sign and return the manifest to the generator, and that any out-
298 of-state transporter signs and forwards the manifest to the designated receiving
299 facility.
300
301 f) For rejected shipments of hazardous waste or container residues contained in non-

302 empty containers that the designated facility has returned to the generator
303 (following the procedures of 35 Ill. Adm. Code 724.172(f) or 725.172(f)), the
304 generator must do each of the following:
305

- 306 1) The generator must sign the hazardous waste manifest (USEPA Form
307 8700-22) as follows:
308
309 A) Item 20 of the new manifest if a new manifest is used for the
310 returned shipment; or
311
312 B) Item 18c of the original manifest if the original manifest is used for
313 the returned shipment;
314
315 2) The generator must provide a copy of the manifest to the transporter;
316
317 3) Within 30 days after delivery of the rejected shipment or container
318 residues contained in non-empty containers, the generator must send a
319 copy of the manifest to the designated facility that returned the shipment
320 to the generator; and
321
322 4) The generator must retain a copy of each manifest at the generator's site
323 for at least three years from the date of delivery.
324

325 (Source: Amended at 35 Ill. Reg. _____, effective _____)
326

327 SUBPART C: PRE-TRANSPORT REQUIREMENTS

328 **Section 722.134 Accumulation Time**

- 329
330
331 a) Except as provided in subsection (d), (e), (f), (g), (h), or (i) of this Section, a
332 generator is exempt from all the requirements in Subparts G and H of 35 Ill. Adm.
333 Code 725, except for 35 Ill. Adm. Code 725.211 and 725.214, and may
334 accumulate hazardous waste on-site for 90 days or less without a permit or
335 without having interim status, provided that the following conditions are fulfilled:
336
337 1) The waste is placed in or on one of the following types of units, and the
338 generator complies with the applicable requirements:
339
340 A) In containers, and the generator complies with Subparts I, AA, BB,
341 and CC of 35 Ill. Adm. Code 725;
342
343 B) In tanks, and the generator complies with Subparts J, AA, BB, and
344 CC of 35 Ill. Adm. Code 725, except 35 Ill. Adm. Code 725.297(c)

345 and 725.300;

346
347 C) On drip pads, and the generator complies with Subpart W of 35 Ill.
348 Adm. Code 725 and maintains the following records at the facility:

349
350 i) A description of the procedures that will be followed to
351 ensure that all wastes are removed from the drip pad and
352 associated collection system at least once every 90 days;
353 and

354
355 ii) Documentation of each waste removal, including the
356 quantity of waste removed from the drip pad and the sump
357 or collection system and the date and time of removal; or
358

359 D) In containment buildings, and the generator complies with Subpart
360 DD of 35 Ill. Adm. Code 725 (has placed its Professional Engineer
361 (PE) certification that the building complies with the design
362 standards specified in 35 Ill. Adm. Code 725.1101 in the facility's
363 operating record prior to the date of initial operation of the unit).
364 The owner or operator must maintain the following records at the
365 facility:

366
367 i) A written description of procedures to ensure that each
368 waste volume remains in the unit for no more than 90 days,
369 a written description of the waste generation and
370 management practices for the facility showing that they are
371 consistent with respect to the 90 day limit, and
372 documentation that the procedures are complied with; or
373

374 ii) Documentation that the unit is emptied at least once every
375 90 days;
376

377 BOARD NOTE: The Board placed the "in addition" hanging subsection
378 that appears in the federal rules after 40 CFR 262.34(a)(1)(iv)(B) in the
379 introduction to subsection (a) of this Section.
380

381 2) The date upon which each period of accumulation begins is clearly
382 marked and visible for inspection on each container;

383
384 3) While being accumulated on-site, each container and tank is labeled or
385 marked clearly with the words "Hazardous Waste"; and

386
387 4) The generator complies with the requirements for owners or operators in

388 Subparts C and D of 35 Ill. Adm. Code 725, ~~and~~ with 35 Ill. Adm. Code
 389 725.116, and with all applicable requirements in 35 Ill. Adm. Code
 390 728.107(a)(5).
 391

392 b) A generator of 1,000 kilograms or greater of hazardous waste in a calendar
 393 month, or greater than 1 kg of acute hazardous waste listed in 35 Ill. Adm. Code
 394 721.131 or 721.133(e) in a calendar month, that accumulates hazardous waste or
 395 acute hazardous waste for more than 90 days is an operator of a storage facility.
 396 Such a generator is subject to the requirements of 35 Ill. Adm. Code 724, ~~and~~
 397 725, ~~and~~ 727 and the permit requirements of 35 Ill. Adm. Code 702, 703, and 705,
 398 unless the generator has been granted an extension of the 90-day period. If
 399 hazardous wastes must remain on-site for longer than 90 days due to unforeseen,
 400 temporary, and uncontrollable circumstances, the generator may seek an
 401 extension of up to 30 days by means of a variance or provisional variance,
 402 pursuant to Sections 35(b), 36(c), and 37(b) of the Environmental Protection Act
 403 [415 ILCS 5/35(b), 36(c), and 37(b)] and 35 Ill. Adm. Code 180 (Agency
 404 procedural regulations).
 405

406 c) Accumulation near the point of generation.
 407

408 1) A generator may accumulate as much as 55 gallons (208 ℓ) of hazardous
 409 waste or one quart of acutely hazardous waste listed in 35 Ill. Adm. Code
 410 721.131 or 721.133(e) in containers at or near any point of generation
 411 where wastes initially accumulate that is under the control of the operator
 412 of the process generating the waste without a permit or interim status and
 413 without complying with subsection (a) or (d) of this Section, provided the
 414 generator does the following:
 415

416 A) The generator complies with 35 Ill. Adm. Code 725.271, 725.272,
 417 and 725.273(a); and
 418

419 B) The generator marks the containers either with the words
 420 "Hazardous Waste" or with other words that identify the contents
 421 of the containers.
 422

423 2) A generator that accumulates either hazardous waste or acutely hazardous
 424 waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e) in excess of the
 425 amounts listed in subsection (c)(1) of this Section at or near any point of
 426 generation must, with respect to that amount of excess waste, comply
 427 within three days with subsection (a) of this Section or other applicable
 428 provisions of this Chapter. During the three day period the generator must
 429 continue to comply with subsection (c)(1) of this Section. The generator
 430 must mark the container holding the excess accumulation of hazardous

431 waste with the date the excess amount began accumulating.

432
 433 d) A generator that generates greater than 100 kilograms but less than 1,000
 434 kilograms of hazardous waste in a calendar month may accumulate hazardous
 435 waste on-site for 180 days or less without a permit or without having interim
 436 status provided that the following conditions are fulfilled:

437
 438 1) The quantity of waste accumulated on-site never exceeds 6,000 kilograms;

439
 440 2) The generator complies with the requirements of Subpart I of 35 Ill. Adm.
 441 Code 725 (except 35 Ill. Adm. Code 725.276 and 725.278);

442
 443 3) The generator complies with the requirements of 35 Ill. Adm. Code
 444 725.301;

445
 446 4) The generator complies with the requirements of subsections (a)(2) and
 447 (a)(3) of this Section, with Subpart C of 35 Ill. Adm. Code 725, and with
 448 all applicable requirements in 35 Ill. Adm. Code 35 Ill. Adm. Code
 449 268728.107(a)(5); and

450
 451 5) The generator complies with the following requirements:

452
 453 A) At all times there must be at least one employee either on the
 454 premises or on call (i.e., available to respond to an emergency by
 455 reaching the facility within a short period of time) with the
 456 responsibility for coordinating all emergency response measures
 457 specified in subsection (d)(5)(D) of this Section. The employee is
 458 the emergency coordinator.

459
 460 B) The generator must post the following information next to the
 461 telephone:

462
 463 i) The name and telephone number of the emergency
 464 coordinator;

465
 466 ii) Location of fire extinguishers and spill control material
 467 and, if present, fire alarm; and

468
 469 iii) The telephone number of the fire department, unless the
 470 facility has a direct alarm.

471
 472 C) The generator must ensure that all employees are thoroughly
 473 familiar with proper waste handling and emergency procedures,

474 relevant to their responsibilities during normal facility operations
475 and emergencies.

- 476
477 D) The emergency coordinator or designee must respond to any
478 emergencies that arise. The following are applicable responses:
479
480 i) In the event of a fire, call the fire department or attempt to
481 extinguish it using a fire extinguisher;
482
483 ii) In the event of a spill, contain the flow of hazardous waste
484 to the extent possible and, as soon as is practicable, clean
485 up the hazardous waste and any contaminated materials or
486 soil; and
487
488 iii) In the event of a fire, explosion, or other release that could
489 threaten human health outside the facility, or when the
490 generator has knowledge that a spill has reached surface
491 water, the generator must immediately notify the National
492 Response Center (using its 24-hour toll free number 800-
493 424-8802).

494
495 E) A report to the National Response Center pursuant to subsection
496 (d)(5)(D)(iii) of this Section must include the following
497 information:

- 498
499 i) The name, address, and USEPA identification number
500 (Section 722.112 of this Part) of the generator;
501
502 ii) The date, time, and type of incident (e.g., spill or fire);
503
504 iii) The quantity and type of hazardous waste involved in the
505 incident; the extent of injuries, if any; and
506
507 iv) The estimated quantity and disposition of recoverable
508 materials, if any.

509
510 BOARD NOTE: The Board has codified 40 CFR
511 262.34(d)(5)(iv)(C)(1) through (d)(5)(iv)(C)(5) as subsections
512 (d)(5)(E)(i) through (d)(5)(E)(iv) because Illinois Administrative
513 Code codification requirements do not allow the use of a fifth level
514 of subsection indents.

- 515
516 e) A generator that generates greater than 100 kilograms but less than 1,000

517 kilograms of hazardous waste in a calendar month and that must transport the
 518 waste or offer the waste for transportation over a distance of 200 miles or more
 519 for off-site treatment, storage, or disposal may accumulate hazardous waste on-
 520 site for 270 days or less without a permit or without having interim status,
 521 provided that the generator complies with the requirements of subsection (d) of
 522 this Section.

523
 524 f) A generator that generates greater than 100 kilograms but less than 1,000
 525 kilograms of hazardous waste in a calendar month and that accumulates
 526 hazardous waste in quantities exceeding 6,000 kg or accumulates hazardous waste
 527 for more than 180 days (or for more than 270 days if the generator must transport
 528 the waste or offer the waste for transportation over a distance of 200 miles or
 529 more) is an operator of a storage facility and is subject to the requirements of 35
 530 Ill. Adm. Code 724, ~~and 725~~, and 727 and the permit requirements of 35 Ill. Adm.
 531 Code 703, unless the generator has been granted an extension to the 180-day (or
 532 270-day if applicable) period. If hazardous wastes must remain on-site for longer
 533 than 180 days (or 270 days if applicable) due to unforeseen, temporary, and
 534 uncontrollable circumstances, the generator may seek an extension of up to 30
 535 days by means of variance or provisional variance pursuant to Sections 35(b),
 536 36(c), and 37(b) of the Environmental Protection Act [415 ILCS 5/35(b), 36(c),
 537 and 37(b)].

538
 539 g) A generator that generates 1,000 kilograms or greater of hazardous waste per
 540 calendar month which also generates wastewater treatment sludges from
 541 electroplating operations that meet the listing description for the RCRA hazardous
 542 waste code F006, may accumulate F006 waste on-site for more than 90 days, but
 543 not more than 180 days, without a permit or without having interim status
 544 provided that the generator fulfills the following conditions:

545
 546 1) The generator has implemented pollution prevention practices that reduce
 547 the amount of any hazardous substances, pollutants, or contaminants
 548 entering F006 or otherwise released to the environment prior to its
 549 recycling;

550
 551 2) The F006 waste is legitimately recycled through metals recovery;

552
 553 3) No more than 20,000 kilograms of F006 waste is accumulated on-site at
 554 any one time; and

555
 556 4) The F006 waste is managed in accordance with the following conditions:

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 558 A) The F006 waste is placed in one of the following containing
 559 devices:

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- 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;
- 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

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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, 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

646 (i)(1) or (i)(2) of this Section.

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648 j) This subsection (j) corresponds with 40 CFR 262.34(j), which became obsolete
 649 when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741
 650 (May 14, 2009). USEPA has recognized that program-related rules are no longer
 651 effective at 75 Fed. Reg. 12989, 12992, note 1 (Mar. 18, 2010). This statement
 652 maintains structural consistency with the corresponding federal requirements.
 653 A member of the federal National Environmental Performance Track program that
 654 generates 1,000 kg or greater of hazardous waste per month (or one kilogram or
 655 more of acute hazardous waste) may accumulate hazardous waste on-site without
 656 a permit or interim status for an extended period of time, provided that the
 657 following conditions are fulfilled:

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659 1) The generator accumulates the hazardous waste for no more than 180
 660 days, or for no more than 270 days if the generator must transport the
 661 waste (or offer the waste for transport) more than 200 miles from the
 662 generating facility;

663

664 2) The generator first notifies USEPA Region 5 and the Agency in writing of
 665 its intent to begin accumulation of hazardous waste for extended time
 666 periods under the provisions of this Section. Such advance notice must
 667 include the following information:

668

669 A) The name and USEPA identification number of the facility and
 670 specification of when the facility will begin accumulation of
 671 hazardous wastes for extended periods of time in accordance with
 672 this Section;

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674 B) A description of the types of hazardous wastes that will be
 675 accumulated for extended periods of time and the units that will be
 676 used for such extended accumulation;

677

678 C) A statement that the facility has made all changes to its operations;
 679 procedures, including emergency preparedness procedures; and
 680 equipment, including equipment needed for emergency
 681 preparedness, that will be necessary to accommodate extended
 682 time periods for accumulating hazardous wastes; and

683

684 D) If the generator intends to accumulate hazardous wastes on-site for
 685 up to 270 days, a certification that a facility that is permitted (or
 686 operating under interim status) under 35 Ill. Adm. Code 702 and
 687 703, federal 40 CFR 270, or the corresponding regulations of a

- 688 sister state to receive these wastes is not available within 200 miles
689 of the generating facility;
- 690
- 691 3) The waste is managed in the following types of units:
- 692
- 693 A) Containers, in accordance with the applicable requirements of
694 Subparts I, AA, BB, and CC of 35 Ill. Adm. Code 725 and 35 Ill.
695 Adm. Code 724.275;
- 696
- 697 B) Tanks, in accordance with the requirements of Subparts J, AA, BB,
698 and CC of 35 Ill. Adm. Code 725, except for Sections 725.297(e)
699 and Section 725.300;
- 700
- 701 C) Drip pads, in accordance with Subpart W of 35 Ill. Adm. Code
702 725; or
- 703
- 704 D) Containment buildings, in accordance with Subpart DD of 35 Ill.
705 Adm. Code 725;
- 706
- 707 4) The quantity of hazardous waste that is accumulated for extended time
708 periods at the facility does not exceed 30,000 kg;
- 709
- 710 5) The generator maintains the following records at the facility for each unit
711 used for extended accumulation times:
- 712
- 713 A) A written description of procedures to ensure that each waste
714 volume remains in the unit for no more than 180 days (or 270 days,
715 as applicable), a description of the waste generation and
716 management practices at the facility showing that they are
717 consistent with the extended accumulation time limit, and
718 documentation that the procedures are complied with; or
- 719
- 720 B) Documentation that the unit is emptied at least once every 180
721 days (or 270 days, if applicable);
- 722
- 723 6) Each container or tank that is used for extended accumulation time periods
724 is labeled or marked clearly with the words "Hazardous Waste," and for
725 each container the date upon which each period of accumulation begins is
726 clearly marked and visible for inspection;
- 727
- 728 7) The generator complies with the requirements for owners and operators in
729 Subparts C and D of 35 Ill. Adm. Code 725, 35 Ill. Adm. Code 725.116,
730 and 35 Ill. Adm. Code 728.107(a)(5). In addition, such a generator is

- 731 exempt from all the requirements in Subparts G and H of 35 Ill. Adm.
732 Code 725, except for 35 Ill. Adm. Code 725.211 and 725.214;
733
734 8) The generator has implemented pollution prevention practices that reduce
735 the amount of any hazardous substances, pollutants, or contaminants
736 released to the environment prior to its recycling, treatment, or disposal;
737 and
738
739 9) The generator includes the following information with its federal National
740 Environmental Performance Track Annual Performance Report, which
741 must be submitted to the USEPA Region 5 and the Agency:
742
743 A) Information on the total quantity of each hazardous waste
744 generated at the facility that has been managed in the previous year
745 according to extended accumulation time periods;
746
747 B) Information for the previous year on the number of off-site
748 shipments of hazardous wastes generated at the facility, the types
749 and locations of destination facilities, how the wastes were
750 managed at the destination facilities (e.g., recycling, treatment,
751 storage, or disposal), and what changes in on-site or off-site waste
752 management practices have occurred as a result of extended
753 accumulation times or other pollution prevention provisions of this
754 Section;
755
756 C) Information for the previous year on any hazardous waste spills or
757 accidents occurring at extended accumulation units at the facility,
758 or during off-site transport of accumulated wastes; and
759
760 D) If the generator intends to accumulate hazardous wastes on-site for
761 up to 270 days, a certification that a facility that is permitted (or
762 operating under interim status) under 35 Ill. Adm. Code 702 and
763 703, federal 40 CFR 270, or the corresponding regulations of a
764 sister state to receive these wastes is not available within 200 miles
765 of the generating facility.
766

767 BOARD NOTE: The National Environmental Performance Track program is
768 operated exclusively by USEPA. USEPA established the program in 2000 (see
769 65 Fed. Reg. 41655 (July 6, 2000)) and amended it in 2004 (see 69 Fed. Reg.
770 27922 (May 17, 2004)). USEPA confers membership in the program on
771 application of interested and eligible entities. Information about the program is
772 available from a website maintained by USEPA: [www.epa.gov/
773 performance-track](http://www.epa.gov/performance-track).

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- k) This subsection (k) corresponds 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, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.~~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)].~~

- l) This subsection (1) corresponds with 40 CFR 262.34(1), 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, note 1 (Mar. 18, 2010). This statement maintain structural consistency with the corresponding federal requirements.~~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.~~

- 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 _____)

SUBPART D: RECORDKEEPING AND REPORTING

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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 40 CFR 261.31 or 261.33(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 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 40 CFR 261.31 or 261.33(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 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.

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.

860 c) A generator must comply with the requirements of subsection (a) or (b) of this
 861 Section, as applicable, when a designated facility has forwarded a rejected
 862 shipment of hazardous waste or container residues contained in non-empty
 863 containers to an alternate facility using a new manifest (following the procedures
 864 of 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or 725.172(e)(1) through
 865 (e)(6)). For purposes of generator compliance with subsection (a) or (b) of this
 866 Section, when a designated facility forwards a shipment of rejected waste to an
 867 alternate facility, the following requirements apply:

- 868
- 869 1) The copy of the manifest received by the generator must have the
 870 handwritten signature of the owner or operator of the alternate facility in
 871 place of the signature of the owner or operator of the designated facility;
 872 and
- 873
- 874 2) The 35-, 45-, or 60-day timeframes begin on the date that the initial
 875 transporter accepts the waste from the designated facility for shipment to
 876 the alternate facility.

877

878 (Source: Amended at 35 Ill. Reg. _____, effective _____)

879

880 SUBPART E: EXPORTS OF HAZARDOUS WASTE

881

882 **Section 722.158 International Agreements**

883

884 a) Any person that exports or imports waste hazardous under U.S. national
 885 procedures, as defined in Section 722.181, waste subject to either the manifest
 886 requirements of this Part or the universal waste management standards of 35 Ill.
 887 Adm. Code 733 which is shipped to or from any of the designated member
 888 countries of the Organisation for Economic Co-operation and Development
 889 (OECD), as listed defined in subsection (a)(1) of this Section, for purposes of
 890 recovery is subject to the requirements of Subpart H of this Part. The
 891 requirements of Subparts E and F of this Part do not apply where Subpart H of
 892 this Part applies.

- 893
- 894 1) For the purposes of this Subpart E, the designated OECD countries are
 895 Australia, Austria, Belgium, the Czech Republic, Denmark, Finland,
 896 France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan,
 897 Luxembourg, the Netherlands, New Zealand, Norway, Portugal, the
 898 Republic of Korea, the Slovak Republic, ~~South Korea~~, Spain, Sweden,
 899 Switzerland, Turkey, the United Kingdom, and the United States.
- 900
- 901 2) Only for the purposes of ~~transit under this Subpart E of this Part~~, Canada
 902 and Mexico are considered OECD member countries.
- 903

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

- 911
- 912 b) Any person that exports hazardous waste to or imports hazardous waste from any
913 designated OECD member country for purposes other than recovery (e.g.,
914 incineration, disposal, etc.), Mexico (for any purpose), or Canada (for any
915 purpose) remains subject to the requirements of Subparts E and F of this Part, and
916 that person is not subject to the requirements of Subpart H of this Part.

917
918 (Source: Amended at 35 Ill. Reg. _____, effective _____)

919
920 **SUBPART F: IMPORTS OF HAZARDOUS WASTE**

921
922 **Section 722.160 Imports of Hazardous Waste**

- 923
- 924 a) Any person that imports hazardous waste from a foreign country into the United
925 States must comply with the requirements of this Part and the special
926 requirements of this Subpart F.
- 927
- 928 b) When importing hazardous waste, a person must meet all the requirements of
929 Section ~~722.120~~722-120(a) for the manifest, except that the following information
930 items are substituted:
- 931
- 932 1) In place of the generator's name, address, and USEPA identification
933 number, the name and address of the foreign generator and the importer's
934 name, address, and USEPA identification number must be used.
- 935
- 936 2) In place of the generator's signature on the certification statement, the
937 United States importer or the importer's agent must sign and date the
938 certification and obtain the signature of the initial transporter.
- 939
- 940 c) A person that imports hazardous waste must obtain the manifest form as provided
941 in Section 722.121.
- 942
- 943 d) In the International Shipments block of the manifest, the importer must check the
944 import box and enter the point of entry (city and State) into the United States.
- 945

- 946 e) The importer must provide the transporter with an additional copy of the manifest
 947 to be submitted by the receiving facility to USEPA in accordance with 35 Ill.
 948 Adm. Code 724.171(a)(3) or 725.171(a)(3), as appropriate.
 949

950 (Source: Amended at 35 Ill. Reg. _____, effective _____)
 951

952 SUBPART H: TRANS-BOUNDARY TRANSFRONTIER SHIPMENTS OF
 953 HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD
 954

955 **Section 722.180 Applicability**
 956

- 957 a) The requirements of this Subpart H apply to imports and exports of wastewastes
 958 that are considered hazardous under U.S. national procedures, as defined in
 959 Section 722.181 and which are destined for recovery operations in any of the
 960 countries listed in Section 722.158(a)(1). A waste is considered hazardous under
 961 U.S. national procedures if it meets the definition of hazardous waste in 35 Ill.
 962 Adm. Code 721.103 and it is subject to either the manifesting requirements in
 963 Subpart B of this Part or to the universal waste management standards of 35 Ill.
 964 Adm. Code 733.
 965

966 BOARD NOTE: USEPA used identical language in 40 CFR 262.10(d),
 967 262.58(a), and corresponding 262.80(a) to define when a waste is considered
 968 hazardous under U.S. national procedures. The Board has chosen to create the
 969 term "waste hazardous under U.S. national procedures"; add a definition in
 970 Section 722.181, the centralized listing of definitions for Subpart H of this Part;
 971 and replace USEPA's defining language in this subsection (a) with a cross-
 972 reference to the definition in Section 722.181.
 973

- 974 b) Any person (importer, exporter, notifier, consignee, or recovery facility operator)
 975 that mixes two or more wastes (including hazardous and non-hazardous wastes)
 976 or that otherwise subjects two or more wastes (including hazardous and non-
 977 hazardous wastes) to physical or chemical transformation operations, and thereby
 978 creates a new hazardous waste, becomes a generator and assumes all subsequent
 979 generator duties under this Subchapter c and any exporter/notifier duties under this
 980 Subpart H, as applicable.
 981

982 (Source: Amended at 35 Ill. Reg. _____, effective _____)
 983

984 **Section 722.181 Definitions**
 985

986 The following definitions apply to this Subpart H and to other provisions within this Part 722 as
 987 specifically indicated:
 988

989 "Amber control procedures"~~"Amber list controls"~~ means the controls listed in
990 Section D of Annex A ("Amber Control Procedure") to OECD Guidance
991 Manual~~section IV of the annex to the OECD Council Decision C(92)39/Final,~~
992 incorporated by reference in 35 Ill. Adm. Code 720.111(a).

993 BOARD NOTE: The Board added this definition.
994

995 "Amber~~Amber list~~ waste" means a waste listed in Appendix 4 ("List of Wastes
996 Subject to the Amber Control Procedure") to Annex A and in Annex C ("OECD
997 Consolidated List of Wastes Subject to the Amber Control Procedure") to OECD
998 Guidance Manual~~the OECD "Amber List of Wastes," appendix 4 to the OECD~~
999 Council Decision C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code
1000 720.111(a).

1001 BOARD NOTE: The Board added this definition.
1002

1003 "Competent authority~~authorities"~~ means the regulatory authority or authorities of
1004 countries concerned ~~countries having jurisdiction over~~ trans-boundary~~transfrontier~~
1005 movements of wastes destined for recovery operations.
1006

1007 "Countries concerned"~~"Concerned countries"~~ means the exporting and importing
1008 OECD member countries of export or import and any OECD member countries of
1009 transit.
1010

1011 "Consent" means the specific or general consent or approval obtained pursuant to
1012 Section 722.183 from the competent authority of the country of export (for export
1013 from that country), the country of transit (for transit through that country), or the
1014 country of import (for import into that country), as required under the applicable
1015 of the Amber control procedures or red control procedures.

1016 BOARD NOTE: The Board added this definition.
1017

1018 "Country of export" means any designated OECD member country listed in
1019 Section 722.158(a)(1) from which a trans-boundary movement of hazardous
1020 waste is planned to be initiated or is initiated.
1021

1022 "Country of import" means any designated OECD member country listed in
1023 Section 722.158(a)(1) to which a trans-boundary movement of hazardous waste is
1024 planned or takes place for the purpose of submitting the waste to recovery
1025 operations in that country.
1026

1027 "Consignee" means the person to whom possession or other form of legal control
1028 of the waste is assigned at the time the waste is received in the importing country.
1029

1030 "Country of transit" means any designated OECD member country in Section
1031 722.158(a)(1) or ~~and~~ (a)(2) other than the country of export~~exporting or importing~~

1032 country of import across which a trans-boundarytransfrontier movement of
1033 wastewastes is planned to be initiated or takes place.

1034
1035 "Exporter" means the person under the jurisdiction of the country of export that
1036 has, or will have at the time the planned trans-boundary movement commences,
1037 possession or other forms of legal control of the waste and that proposes trans-
1038 boundary movement of hazardous waste for the ultimate purpose of submitting it
1039 to recovery operations. When the United States is the country of export, exporter
1040 is interpreted to mean a person domiciled in the United States.

1041
1042 "Exporting country" means any designated OECD member country in Section
1043 722.158(a)(1) from which a transfrontier movement of wastes is planned or has
1044 commenced.

1045
1046 "Green control procedures"~~"Green list controls"~~ means the controls listed in
1047 Section C of Annex A ("Green Control Procedure") to OECD Guidance
1048 Manualsection III of the annex to the OECD Council Decision C(92)39/Final,
1049 incorporated by reference in 35 Ill. Adm. Code 720.111(a).

1050 BOARD NOTE: The Board added this definition.

1051
1052 Green~~"Green list waste"~~ means a waste listed in Appendix 3 ("List of Wastes
1053 Subject to the Green Control Procedures") to Annex A and in Annex B ("OECD
1054 Consolidated List of Wastes Subject to the Green Control Procedure") to OECD
1055 Guidance Manualthe OECD "Green List of Wastes," Appendix 3 to the OECD
1056 Council Decision C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code
1057 720.111(a).

1058 BOARD NOTE: The Board added this definition.

1059
1060 "Importer" means the person that is assigned possession or other form of legal
1061 control of the waste at the time the waste is received in the country of import.

1062
1063 "OECD-listed waste" means, for the purposes of this Subpart H, Green waste or
1064 Amber waste, as defined in this Section.

1065 BOARD NOTE: USEPA used the term "listed wastes" in 40 CFR 262.82(a)(1)
1066 and (a)(2) (2010) (corresponding with 35 Ill. Adm. Code 722.182(a)(1) and
1067 (a)(2)), referring to Green waste and Amber waste. The Board changed the term
1068 to "OECD-listed waste" and added this definition, based on the discussions at 75
1069 Fed. Reg. 1236, 1241, 1247 (Jan. 8, 2010), to distinguish this use in the context of
1070 waste export from the common use of the same term to describe waste defined as
1071 hazardous under Subpart D of 40 CFR 261 (2010) (corresponding with Subpart D
1072 of 35 Ill. Adm. Code 721).

1073
1074 "OECD" means the Organisation for Economic Cooperation and Development.

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

1118 waste designation" to replace USEPA's language and added this definition of the
 1119 created term, interpreting the plain language of 40 CFR 262.83(d)(12) and
 1120 262.89(d) (2010) (corresponding with 35 Ill. Adm. Code 722.183(a)(12) and
 1121 722.189(d)) to mean Green waste and Amber waste.

1122
 1123 "Recognized trader" means a person that, with appropriate authorization of
 1124 countries concerned ~~countries~~, acts in the role of principal to purchase and
 1125 subsequently sell wastes; this person has legal control of such wastes from time of
 1126 purchase to time of sale; such a person may act to arrange and facilitate trans-
 1127 boundary~~transfrontier~~ movements of wastes destined for recovery operations.

1128
 1129 "Recovery facility" means a facility~~an entity~~ that, under applicable domestic law,
 1130 is operating or is authorized to operate in the ~~importing~~ country of import to
 1131 receive wastes and to perform recovery operations on them.

1132
 1133 "Recovery operations" means activities leading to resource recovery, recycling,
 1134 reclamation, direct re-use, or alternative uses, which include the following types
 1135 of operations, ~~as listed in table 2.B of the annex of OECD Council Decision~~
 1136 ~~C(88)90/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a), which~~
 1137 ~~include the following activities:~~

- 1138
- 1139 R1 Use as a fuel (other than in direct incineration) or other means to
- 1140 generate energy,
- 1141
- 1142 R2 Solvent reclamation or regeneration,
- 1143
- 1144 R3 Recycling or reclamation of organic substances that are not used as
- 1145 solvents,
- 1146
- 1147 R4 Recycling or reclamation of metals and metal compounds,
- 1148
- 1149 R5 Recycling or reclamation of other inorganic materials,
- 1150
- 1151 R6 Regeneration of acids or bases,
- 1152
- 1153 R7 Recovery of components used for pollution abatement~~control~~,
- 1154
- 1155 R8 Recovery of components from used catalysts,
- 1156
- 1157 R9 Used oil re-refining or other reuses of previously used oil,
- 1158
- 1159 R10 Land treatment resulting in benefit to agriculture or ecological
- 1160 improvement,

- 1161
- 1162 R11 Uses of residual materials obtained from any of the operations
- 1163 numbered R1 through R10,
- 1164
- 1165 R12 Exchange of wastes for submission to any of the operations
- 1166 numbered R1 through R11, and
- 1167
- 1168 R13 Accumulation of material intended for any operation numbered R1
- 1169 through R12 in this listing in Table 2.B.
- 1170

1171 ~~"Red list controls" means the controls listed in section V of the annex to the~~
1172 ~~OECD Council Decision C(92)39/Final, incorporated by reference in 35 Ill. Adm.~~
1173 ~~Code 720.111(a).~~

1174

1175 ~~"Red list waste" means a waste listed in the OECD "Red List of Wastes,"~~
1176 ~~appendix 5 to the OECD Council Decision C(92)39/Final, incorporated by~~
1177 ~~reference in 35 Ill. Adm. Code 720.111(a).~~

1178

1179 ~~"Trans-boundary"Transfrontier movement" means any movementshipment of~~
1180 ~~wastes destined for recovery operations from an area under the national~~
1181 ~~jurisdiction of one OECD member country to an area under the national~~
1182 ~~jurisdiction of another OECD member country.~~

1183

1184 "Waste hazardous under U.S. national procedures" means, for the purposes of
1185 Sections 722.110(d) and 722.159(a) and Subpart H of this Part, a waste that meets
1186 the definition of hazardous waste, as set forth in 35 Ill. Adm. Code 721.103, and
1187 that is subject to any of the following regulations:

1188

1189 The hazardous waste manifesting requirements of Subpart B of this Part;

1190

1191 The universal waste management standards of 35 Ill. Adm. Code 733, 40
1192 CFR 273, or analogous requirements of a sister state; or

1193

1194 The export requirements in the spent lead-acid battery management
1195 standards of Subpart G of 35 Ill. Adm. Code 726, subpart G of 40 CFR
1196 266, or analogous requirements of a sister state.

1197 BOARD NOTE: USEPA used identical language in 40 CFR 262.10(d),
1198 262.58(a), and 262.80(a) to define when a waste is considered hazardous under
1199 U.S. national procedures. The Board has chosen to create the term "waste
1200 hazardous under U.S. national procedures" for uniform use wherever this type of
1201 waste is intended; add a definition in this Section, the centralized listing of
1202 definitions for Subpart H of this Part; and replace USEPA's defining language in

1203 40 CFR 262.10(d), 262.58(a), and 262.80(a) with cross-references to this
 1204 definition.

1205
 1206 (Source: Amended at 35 Ill. Reg. _____, effective _____)
 1207

1208 **Section 722.182 General Conditions**
 1209

1210 a) Scope. The level of control for exports and imports of waste hazardous under U.S.
 1211 national procedures, as defined in Section 722.181, is indicated by
 1212 designation assignment of the waste as either Green waste or Amber waste to a
 1213 green, amber, or red list and by U.S. national procedures, as such are defined in
 1214 Section 722.181 722.180(a). The green, amber, and red lists are incorporated by
 1215 reference in 35 Ill. Adm. Code 720.111(a).
 1216

1217 1) OECD-listed wastes subject to the Green control procedures.
 1218

1219 1) ~~Green list waste is subject to existing controls normally applied to~~
 1220 ~~commercial transactions, except as provided below:~~

1221 A) ~~Green~~ Green list waste that is ~~not waste~~ not waste considered hazardous under
 1222 U.S. national procedures, as defined in Section 722.181, is subject
 1223 to existing amber list controls normally applied to commercial
 1224 transactions.
 1225

1226 B) ~~Green~~ Green list waste that is waste ~~sufficiently contaminated or~~
 1227 ~~mixed with amber list waste, such that the waste or waste mixture~~
 1228 ~~is considered hazardous under U.S. national procedures, as defined~~
 1229 ~~in Section 722.181, is subject to Amber control procedures set~~
 1230 ~~forth in Subpart H amber list controls.~~
 1231

1232 2) OECD-listed wastes subject to the Amber control procedures.
 1233

1234 C) ~~Green list waste that is sufficiently contaminated or mixed with~~
 1235 ~~other wastes subject to red list controls, such that the waste or~~
 1236 ~~waste mixture is considered hazardous under U.S. national~~
 1237 ~~procedures, must be handled in accordance with the red list~~
 1238 ~~controls.~~
 1239

1240 A2) Amber ~~Amber~~ list waste that is waste ~~considered hazardous under~~
 1241 U.S. national procedures, as defined in Section 722.181 722.180(a),
 1242 is subject to the Amber control procedures set forth in amber list
 1243 controls of this Subpart H. If amber list waste is sufficiently
 1244 contaminated or mixed with other wastes subject to red list
 1245

1246 controls, such that the waste or waste mixture is considered
1247 hazardous under U.S. national procedures, the wastes must be
1248 handled in accordance with the red-list controls.
1249

1250 B) Amber waste that is waste hazardous under U.S. national
1251 procedures, as defined in Section 722.181, is subject to the Amber
1252 control procedures within the United States, even if they are
1253 imported to or exported from a designated OECD member country
1254 listed in Section 722.158(a)(1) that does not consider the waste to
1255 be hazardous. In such an event, the responsibilities of the Amber
1256 control procedures shift as follows:
1257

1258 i) For exports of Amber waste from the United States,
1259 USEPA has stated that the United States will issue an
1260 acknowledgement of receipt and assume other
1261 responsibilities of the competent authority of the country of
1262 import.
1263

1264 ii) For imports of Amber waste into the United States, USEPA
1265 has stated that the U.S. recovery facility or importer must
1266 assume the obligations associated with the Amber control
1267 procedures that normally apply to the exporter, and the
1268 United States will assume the obligations associated with
1269 the Amber control procedures that normally apply to the
1270 country of export.
1271

1272 C) Amber waste that is not waste hazardous under U.S. national
1273 procedures, as defined in Section 722.181, but that is considered
1274 hazardous by an OECD member country, is subject to the Amber
1275 control procedures in the OECD member country that considers
1276 the waste hazardous. All responsibilities of the U.S. importer or
1277 exporter shift to the importer or exporter of the OECD member
1278 country that considers the waste hazardous unless the parties make
1279 other arrangements through contracts.
1280

1281 3) Red-list waste that is considered hazardous under U.S. national
1282 procedures, as defined in Section 722.180(a), is subject to the red-list
1283 controls of this Subpart H.
1284

1285 BOARD NOTE: Some amber-list wastes or red-list wastes that are subject to
1286 Amber control procedures are not listed or otherwise identified as hazardous
1287 under RCRA (e.g., polychlorinated biphenyls) and, therefore, are not subject to
1288 the Amber control proceduresamber-list or red-list controls of this Subpart H.

1289 Regardless of the status of the waste under RCRA, however, other federal
 1290 environmental statutes (e.g., the Toxic Substances Control Act (42 USC 2601 et
 1291 seq.)) ~~may~~ restrict certain waste imports or exports. ~~These~~ Such restrictions
 1292 continue to apply ~~with~~~~without~~ regard to this Subpart H.

1293
 1294 3) Procedures for mixtures of wastes.

1295
 1296 A) A Green waste that is mixed with one or more other Green wastes
 1297 such that the resulting mixture is not waste hazardous under U.S.
 1298 national procedures, as defined in Section 722.181, is subject to the
 1299 Green control procedures, provided the composition of this
 1300 mixture does not impair its environmentally sound recovery.

1301
 1302 BOARD NOTE: USEPA has noted that the law of some OECD
 1303 member countries may require that mixtures of different Green
 1304 wastes be subject to the Amber control procedures.

1305
 1306 B) A Green waste that is mixed with one or more Amber wastes, in
 1307 any amount, de minimis or otherwise, or a mixture of two or more
 1308 Amber wastes, such that the resulting waste mixture is waste
 1309 hazardous under U.S. national procedures, as defined in Section
 1310 722.181, is subject to the Amber control procedures, provided the
 1311 composition of this mixture does not impair its environmentally
 1312 sound recovery.

1313
 1314 BOARD NOTE: USEPA has noted that the law of some OECD
 1315 member countries may require that a mixture of a Green waste and
 1316 more than a de minimis amount of an Amber waste or a mixture of
 1317 two or more Amber wastes be subject to the Amber control
 1318 procedures.

1319
 1320 4) Waste that is not yet OECD-listed waste assigned to a list is eligible for
 1321 trans-boundary/transfrontier movements, as follows:

1322
 1323 A) If ~~thesueh~~ waste is ~~waste~~considered hazardous under U.S. national
 1324 procedures, as defined in Section ~~722.181~~722.180(a), ~~the~~this waste
 1325 is subject to Amber control procedures, ~~the red list controls~~; or

1326
 1327 B) If ~~thesueh~~ waste is not ~~waste~~considered hazardous under U.S.
 1328 national procedures, as defined in Section ~~722.181~~722.180(a),
 1329 ~~thesueh~~ waste is subject to Green control procedures~~may move as~~
 1330 though it were a green-list waste.
 1331

- 1332 b) General conditions applicable to ~~trans-boundary~~~~transfrontier~~ movements of
 1333 hazardous waste.
 1334
 1335 1) The waste must be destined for recovery operations at a facility that, under
 1336 applicable domestic law, is operating or is authorized to operate in the
 1337 importing country;
 1338
 1339 2) The ~~trans-boundary~~~~transfrontier~~ movement must be in compliance with
 1340 applicable international transport agreements; and
 1341
 1342 BOARD NOTE: These international agreements include, but are not
 1343 limited to, the Chicago Convention (1944), ADR (1957), ADN (1970),
 1344 MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG
 1345 Code (1985), COTIF (1985), and RID (1985).
 1346
 1347 3) Any transit of waste through a non-OECD member country must be
 1348 conducted in compliance with all applicable international and national
 1349 laws and regulations.
 1350
 1351 c) Provisions relating to re-export for recovery to a third country.
 1352
 1353 1) Re-export of waste that is subject to the ~~Amber control procedures~~~~amber-~~
 1354 ~~list controls~~ from the ~~United States~~~~U.S.~~, as the ~~importing country of~~
 1355 ~~import~~, to a third country listed in Section 722.158(a)(1) may occur only
 1356 after an ~~exporter~~~~a notifier~~ in the ~~United States~~~~U.S.~~ provides notification to
 1357 and obtains consent ~~from~~~~of~~ the competent authorities in the third country,
 1358 the original ~~exporting country of export~~, and ~~any~~~~new~~ transit countries.
 1359 The notification must comply with the notice and consent procedures in
 1360 Section 722.183 for all ~~countries~~ concerned ~~eountries~~ and the original
 1361 exporting country. The competent authorities of the original exporting
 1362 country, as well as the competent authorities of all other concerned
 1363 countries, have 30 days to object to the proposed movement.
 1364
 1365 A) The 30-day period begins once the competent authorities of both
 1366 the initial ~~exporting country of export~~ and new ~~importing country~~
 1367 ~~of import~~ issue Acknowledgments of Receipt of the notification.
 1368
 1369 B) The ~~trans-boundary~~~~transfrontier~~ movement may commence if no
 1370 objection has been lodged after the 30-day period has passed or
 1371 immediately after written consent is received from all relevant
 1372 OECD ~~importing and transit countries of import and countries of~~
 1373 ~~transit~~.
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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.~~

23) In the case of re-export of ~~Amber~~amber list waste or red list 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~~subsections (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.

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.

- 1418 2) Return from the country of import to the United States. The U.S. exporter
 1419 must provide for the return of the hazardous waste shipment within 90
 1420 days from the time the country of import informs USEPA of the need to
 1421 return the waste or such other period of time as the concerned OECD
 1422 member countries agree. The U.S. exporter must submit an exception
 1423 report to USEPA in accordance with Section 722.187(b).
 1424
- 1425 e) Duty to return wastes subject to the Amber control procedures from a country of
 1426 transit. When a trans-boundary movement of wastes subject to the Amber control
 1427 procedures does not comply with the requirements of the notification and
 1428 movement documents or otherwise constitutes illegal shipment, and if alternative
 1429 arrangements cannot be made to recover these wastes in an environmentally
 1430 sound manner, the waste must be returned to the country of export. The following
 1431 provisions apply, as appropriate:
 1432
- 1433 1) Return from the United States (as country of transit) to the country of
 1434 export. The U.S. transporter must inform USEPA at the specified address
 1435 in 40 CFR 262.83(b)(1)(i) of the need to return the shipment. USEPA will
 1436 then inform the competent authority of the country of export, citing the
 1437 reasons for returning the waste. The U.S. transporter must complete the
 1438 return within 90 days from the time USEPA informs the country of export
 1439 of the need to return the waste, unless informed in writing by USEPA of
 1440 another timeframe agreed to by the concerned member countries.
 1441
- 1442 2) Return from the country of transit to the United States (as country of
 1443 export). The U.S. exporter must provide for the return of the hazardous
 1444 waste shipment within 90 days from the time the competent authority of
 1445 the country of transit informs USEPA of the need to return the waste or
 1446 such other period of time as the concerned OECD member countries
 1447 agree. The U.S. exporter must submit an exception report to USEPA in
 1448 accordance with Section 722.187(b).
 1449
- 1450 f) Requirements for wastes destined for and received by facilities engaged in R12
 1451 and R13 recovery operations. The trans-boundary movement of wastes destined
 1452 for an R12 or R13 recovery operation must comply with all Amber control
 1453 procedures for notification and consent, as set forth in Section 722.183, and for
 1454 the movement document, as set forth in Section 722.184. Additional
 1455 responsibilities of a facility engaged in an R12 or R13 recovery operation include
 1456 the following:
 1457
- 1458 1) Indicating in the notification document the foreseen recovery facility or
 1459 facilities where the subsequent R1 through R11 recovery operation will
 1460 take place or may take place.

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- 2) Within three days after the receipt of the wastes by a facility engaged in an 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 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;

1503 B) In a third country other than the initial country of export, Amber
1504 control procedures apply, with the additional requirement that the
1505 competent authority of the initial country of export must also be
1506 notified of the trans-boundary movement.

1507
1508 g) Laboratory analysis exemption. The trans-boundary movement of an Amber
1509 waste is exempt from the Amber control procedures if the Amber waste is in
1510 certain quantities and destined for laboratory analysis to assess its physical or
1511 chemical characteristics or to determine its suitability for recovery operations.
1512 The quantity of the Amber waste must be determined by the minimum quantity
1513 reasonably needed to adequately perform the analysis in each particular case, but
1514 in no case may the amount of Amber waste exceed 25 kilograms (kg). Amber
1515 waste destined for laboratory analysis must still be appropriately packaged and
1516 labeled.

1517
1518 (Source: Amended at 35 Ill. Reg. _____, effective _____)
1519

1520 **Section 722.183 Notification and Consent**

1521
1522 a) Applicability. Consent must be obtained from the competent authorities of the
1523 relevant OECD country of import importing and country of transit countries prior
1524 to exporting hazardous waste destined for recovery operations subject to this
1525 Subpart H. Hazardous wastes subject to Amber control proceduresamber-list
1526 controls are subject to the requirements of subsection (b) of this Section;
1527 hazardous wastes subject to red-list controls are subject to the requirements of
1528 subsection (c) of this Section; and wastes that are not OECD-listed
1529 wasteidentified on any list are subject to the requirements of subsection (cd) of
1530 this Section.

1531
1532 b) AmberAmber-list wastes. ExportThe export from the U.S. of hazardous waste
1533 from the United States, as described in Section 722.180(a), that is subject to the
1534 Amber control proceduresamber-list waste is prohibited unless the notification
1535 and consent requirements of subsection (b)(1) or subsection (b)(2) of this Section
1536 are met.

1537
1538 1) Transactions requiring specific consent.

1539
1540 A) Notification. At least 45 days prior to commencement of each
1541 trans-boundary the transfrontier-movement, the exporterexporter
1542 must provide written notification in English of the proposed trans-
1543 boundarytransfrontier movement to the Office of Federal
1544 Activities, International Compliance Assurance Division (2254A),
1545 Environmental Protection Agency, 1200 Pennsylvania Ave., NW,

1546 Washington DC 20460, and the Illinois Environmental Protection
 1547 Agency, Bureau of Land, Division of Land Pollution Control, P.O.
 1548 Box 19276, Springfield IL 62794-9276, with the words "Attention:
 1549 OECD Export Notification" prominently displayed on the
 1550 envelope. This notification must include all of the information
 1551 identified in subsection (de) of this Section. In cases where wastes
 1552 having similar physical and chemical characteristics, the same
 1553 United Nations classification, ~~and the same USEPA hazardous~~
 1554 ~~waste codes, and the Amber wastes~~ are to be sent periodically to
 1555 the same recovery facility by the same ~~exporter/notifier~~, the
 1556 exporter/notifier may submit one notification of intent to export
 1557 these wastes in multiple shipments during a period of up to one
 1558 year. Even when a general notification is used for multiple
 1559 shipments, each shipment still must be accompanied by its own
 1560 movement document pursuant to Section 722.184.

1561
 1562 B) Tacit consent. If no objection has been lodged by any country
 1563 ~~concerned country~~ (i.e., country of export/exporting, country of
 1564 import/importing, or country of transit-countries) to a notification
 1565 provided pursuant to subsection (b)(1)(A) of this Section within 30
 1566 days after the date of issuance of the Acknowledgement
 1567 ~~Acknowledgment~~ of Receipt of notification by the competent
 1568 authority of the ~~importing country of import, the trans-~~
 1569 boundary/transfrontier movement may commence. Tacit consent
 1570 expires one calendar year after the close of the 30-day period;
 1571 renotification and renewal of all consents is required for exports
 1572 after that date.

1573
 1574 C) Written consent. If the competent authorities of all the relevant
 1575 OECD importing and transit countries provide written consent in a
 1576 period less than 30 days, the trans-boundary/transfrontier
 1577 movement may commence immediately after all necessary
 1578 consents are received. Written consent expires for each relevant
 1579 OECD importing and transit country one calendar year after the
 1580 date of that country's consent unless otherwise specified;
 1581 renotification and renewal of each expired consent is required for
 1582 exports after that date.

1583
 1584 2) Trans-boundary movements/Shipments to facilities pre-approved by the
 1585 competent authorities of the importing countries to accept specific wastes
 1586 for recovery.
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- A) Notification. The ~~exporter~~~~notifier~~ must provide USEPA and the Agency a notification that contains all of the information identified in subsection (de) of this Section in English, at least 10 days in advance of commencing shipment to a ~~preapproved~~~~pre-approved~~ facility. The notification ~~must~~~~should~~ indicate that the recovery facility is ~~preapproved~~~~pre-approved~~, 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) Exports to pre-approved facilities~~Shipments may take place~~~~commence~~ 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 authority of the country of import~~authorities of all concerned countries, unless the exporter~~~~notifier~~ has received information indicating that the competent authority~~authorities~~ of any country~~one or more concerned~~ has objected~~countries~~ objects 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.~~
- cd) ~~Unlisted wastes. Waste that is not Green~~~~green-list waste or Amber, amber-list waste. Waste destined for recovery operations that is not Green, or red list waste or Amber waste, as defined in Section 722.181, but that and which is waste~~~~considered~~ hazardous under U.S. national procedures, as defined in Section 722.181~~722.180(a)~~, is subject to the notification and consent requirements

1631 established ~~the Amber control procedures for red-list wastes~~ in accordance with
 1632 subsection (be) of this Section. ~~Waste destined for recovery operations~~ Unlisted
 1633 ~~wastes that has not been assigned to the OECD Green and Amber lists~~
 1634 ~~incorporated by reference in 40 CFR 262.89(d), and that isare not considered~~
 1635 ~~hazardous under U.S. national procedures, as defined in Section~~
 1636 ~~722.181722.180(a), are not subject to the Green control procedures~~ amber-list or
 1637 ~~red-list controls when exported or imported.~~

1638
 1639 de) Notification information. Notifications submitted under this Section must include
 1640 the following information:

- 1641 1) ~~The serial~~ Serial number or other accepted identifier of the notification
 1642 ~~document~~ form;
- 1643 2) ~~The exporter's~~ Notifier name and USEPA identification number (if
 1644 applicable), address, and telephone, fax, and email address ~~and telefax~~
 1645 ~~numbers~~;
- 1646 3) ~~The importing~~ Importing recovery facility's ~~facility~~ name, address,
 1647 telephone, fax, e-mail address ~~and telefax numbers~~, and technologies
 1648 employed;
- 1649 4) ~~The importer's~~ Consignee name (if not the owner or operator of the
 1650 recovery facility), address, and telephone, fax, and e-mail address ~~and~~
 1651 ~~telefax numbers~~; whether the importer ~~consignee~~ will engage in waste
 1652 exchange recovery operations R12 or waste accumulation recovery
 1653 operations R13 or storage prior to delivering the waste to the final recovery
 1654 facility; and identification of recovery operations to be employed at the
 1655 final recovery facility;
- 1656 5) ~~The intended transporters'~~ Intended transporters or their agents' address,
 1657 telephone, fax, and e-mail address agents;
- 1658 6) ~~The country~~ Country of export and relevant competent authority and point
 1659 of departure;
- 1660 7) ~~The countries~~ Countries of transit and relevant competent authorities and
 1661 points of entry and departure;
- 1662 8) ~~The country~~ Country of import and relevant competent authority and point
 1663 of entry;
- 1664 9) ~~A statement~~ Statement of whether the notification is a single notification or
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1674 a general notification. If general, include the period of validity requested;

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1676 10) The dates~~Date~~ foreseen for commencement of trans-boundary
1677 movement~~transfrontier movement~~;

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1679 11) The means of transport envisaged;

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1681 12) The OECD waste designation ~~Designation of waste types from the~~
1682 appropriate list (e.g., Green ~~amber~~ list waste or Amber ~~red~~ list waste and
1683 waste list code) for each waste type, a description ~~descriptions~~ of each
1684 waste type, the estimated total quantity of each waste type, the USEPA
1685 hazardous waste code for each waste type, and the United Nations number
1686 for each waste type; and

1687

1688 13) The specification of the recovery operations, as defined in Section
1689 722.181; and

1690

1691 14) A Certification/Declaration signed by the exporter~~notifier~~ that states as
1692 follows:

1693

1694 "I certify that the above information is complete and correct to the best of
1695 my knowledge. I also certify that legally enforceable~~legally enforceable~~
1696 written contractual obligations have been entered into, and that any
1697 applicable insurance or other financial guarantees are or must be in force
1698 covering the trans-boundary~~transfrontier~~ movement.

1699

Name: _____

Signature: _____

Date: _____ "

1700

1701 BOARD NOTE: The United State~~U.S.~~ does not currently require
1702 financial assurance for these waste shipments. ~~However;~~ ~~however,~~ U.S.
1703 exporters may be asked by other governments to provide and certify to
1704 such assurance as a condition of obtaining consent to a proposed
1705 movement.

1706

1707 e) Certificate of recovery. As soon as possible, but no later than 30 days after the
1708 completion of recovery or one calendar year following receipt of the waste,
1709 whichever comes first, the U.S. recovery facility must send a certificate of
1710 recovery to the exporter and to the competent authorities of the countries of
1711 export and import. The recovery facility owner or operator must send the
1712 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 affirming 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 Movement Tracking Document

- a) All U.S. parties subject to the contract provisions of Section 722.185 must ensure that a movement tracking document meeting the conditions of subsection (b) of this Section accompanies each trans-boundary movement transfrontier shipment of wastes subject to Amber control procedures amber list or red list controls from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored or sorted exchanged by the importer consignee prior to shipment to the final recovery facility, except as provided in this subsection (a).
 - 1) For shipments of hazardous waste within the United States U.S. solely by water (bulk shipments only), the generator must forward the movement tracking document with the manifest to the last water (bulk shipment) transporter to handle the waste in the United States U.S. 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 United States U.S. that originate at the site of generation, the generator must forward the movement tracking 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 United States U.S. if exported by rail.
- b) The movement tracking document must include all information required under Section 722.183 (for notification) as well as and the following information:
 - 1) The date movements shipment commenced;
 - 2) The name (if not the exporter notifier), address, and telephone, and telefax numbers, and e-mail of the primary exporter;
 - 3) The company name and USEPA identification number of all transporters;

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- 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 the exporter~~notifier~~ 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 trans-boundary~~transfrontier~~ movement, and that (delete sentences that are not applicable):"

- "1. All necessary consents have been received~~;~~";
- "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

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- 7) The appropriate signatures for each custody transfer (e.g., transporter, importer~~consignee~~, and owner or operator of the recovery facility).
- c) Exporters~~Notifiers~~ also must comply with the special manifest requirements of Section 722.154(a), (b), (c), (e), and (i) and importer~~consignees~~ 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 movement~~tracking~~ document (e.g., transporter, importer~~consignee~~, and owner or

1795 operator of the recovery facility).

1796
 1797 e) Within three working days after the receipt of imports subject to this Subpart H,
 1798 the owner or operator of the U.S. recovery facility must send signed copies of the
 1799 movementtracking document to the exporter ~~notifier~~, to the Office of Enforcement
 1800 and Compliance Assurance, Office of Federal Activities, International
 1801 Compliance Assurance Division (2254A), Environmental Protection Agency,
 1802 1200 Pennsylvania Ave., NW, Washington, DC 20460, and to the competent
 1803 authorities of the country of export ~~exporting~~ and country of transit. If the
 1804 concerned U.S. recovery facility is an R12 or R13 recovery operation facility, as
 1805 defined in Section 722.181, the facility owner or operator must retain the original
 1806 of the movement document for three year ~~se~~ countries.

1807
 1808 (Source: Amended at 35 Ill. Reg. _____, effective _____)
 1809

1810 **Section 722.185 Contracts**

- 1811
- 1812 a) Trans-boundary ~~Transfrontier~~ movements of hazardous wastes subject to the
 1813 Amber ~~amber or red~~ control procedures are prohibited unless they occur under the
 1814 terms of a valid written contract, chain of contracts, or equivalent arrangements
 1815 (when the movement occurs between parties controlled by the same corporate or
 1816 legal entity). Such contracts or equivalent arrangements must be executed by the
 1817 exporter ~~notifier~~ and the owner or operator of the recovery facility, and must
 1818 specify responsibilities for each. Contracts or equivalent arrangements are valid
 1819 for the purposes of this Section only if persons assuming obligations under the
 1820 contracts or equivalent arrangements have appropriate legal status to conduct the
 1821 operations specified in the contract or equivalent arrangements ~~arrangement~~.
 1822
- 1823 b) Contracts or equivalent arrangements must specify the following names and
 1824 USEPA identification numbers, where available:
 1825
- 1826 1) The generator of each type of waste;
 - 1827
 - 1828 2) Each person that will have physical custody of the wastes;
 - 1829
 - 1830 3) Each person that will have legal control of the wastes; and
 - 1831
 - 1832 4) The recovery facility.
 - 1833
- 1834 c) Contracts or equivalent arrangements must specify which party to the contract
 1835 will assume responsibility for alternate management of the wastes if its
 1836 disposition cannot be carried out as described in the notification of intent to
 1837 export. In such cases, contracts must specify the following:

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- 1) That the person having actual possession or physical control over the wastes will immediately inform the ~~exporter~~notifier and the competent authorities of the ~~county of export and county of import~~exporting and importing countries and, if the wastes are located in a country of transit, the competent authorities of that country; and
- 2) That the person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of wastes and, as the case may be, shall provide the notification for re-export~~their return to the original country of export.~~

- d) Contracts must specify that the ~~importer~~consignee 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~~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 ~~exporter~~notifier to ascertain and comply with such requirements; in some cases, ~~a transporter~~transporters or ~~importer~~consignees may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

- f) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this Subpart H.
- g) Upon request by USEPA or the Agency, a U.S. ~~exporter, importer, notifiers, consignees,~~ or recovery ~~facility~~facilities 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.

1881
 1882 BOARD NOTE: Although the United StatesU.S. does not require routine
 1883 submission of contracts at this time, OECD Guidance ManualCouncil Decision
 1884 ~~C(92)39/FINAL~~ allows OECD member countriesmembers to impose such
 1885 requirements. When other OECD member countries require submission of partial
 1886 or complete copies of the contract as a condition to granting consent to proposed
 1887 movements, USEPA or the Agency will request the required information; absent
 1888 submission of such information, some OECD member countries may deny
 1889 consent for the proposed movement.

1891 (Source: Amended at 35 Ill. Reg. _____, effective _____)
 1892

1893 **Section 722.186 Provisions Relating to Recognized Traders**
 1894

- 1895 a) A recognized trader that takes physical custody of a waste and conducts recovery
 1896 operations (including storage prior to recovery) is acting as the owner or operator
 1897 of a recovery facility and must be so authorized in accordance with all applicable
 1898 federal laws.
 1899
 1900 b) A recognized trader acting as an exportera-notifier or importereonsignee for trans-
 1901 boundarytransfrontier shipments of waste must comply with all the
 1902 exporternotifier or importereonsignee requirements of this Subpart H.
 1903

1904 (Source: Amended at 35 Ill. Reg. _____, effective _____)
 1905

1906 **Section 722.187 Reporting and Recordkeeping**
 1907

- 1908 a) Annual reports. For all waste movements subject to this Subpart H, persons (e.g.,
 1909 exportersnotifiers, recognized traders, etc.) that meet the definition of primary
 1910 exporter in Section 722.151 or that initiate the movement documentation pursuant
 1911 to Section 722.184 must file an annual report with the Office of Enforcement and
 1912 Compliance Assurance, Office of Federal Activities, International Compliance
 1913 Assurance Division (2254A), U.S. Environmental Protection Agency, 1200
 1914 Pennsylvania Ave., NW, Washington, DC 20460 and the Illinois Environmental
 1915 Protection Agency, Bureau of Land, Division of Land Pollution Control, P.O. Box
 1916 19276, Springfield, IL 62794, no later than March 1 of each year summarizing the
 1917 types, quantities, frequency, and ultimate destination of all such hazardous waste
 1918 exported during the previous calendar year. (If the primary exporter or the person
 1919 that initiates the movement document under 40 CFR 262.84 is required to file an
 1920 annual report for waste exports that are not covered under this Subpart H, the
 1921 person filing may include all export information in one report provided the
 1922 following information on exports of waste destined for recovery within the
 1923 designated OECD member countries is contained in a separate Section.)-

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Such reports must include all of the following information:

- 1) The USEPA identification number, name, and mailing and site address of the exporter ~~notifier~~ 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, as defined in Section 722.181, the ~~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),~~ 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:

"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

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imprisonment."

- b) Exception reports. Any person that meets the definition of primary exporter in Section 722.151 or that 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 movementtracking 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 exporter~~notifier~~ 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) A person~~Persons~~ that meets~~meet~~ the definition of primary exporter in Section 722.151 or that 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~~ 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., movement documenttracking~~documentation~~) sent by the recovery facility to the exporter~~notifier~~, 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 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;

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, either the hazardous waste manifesting requirements of Subpart B of this Part or the universal waste management standards of 35 Ill. Adm. Code 733.

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 the Amber control procedures, regardless of whether it is Amber wasteeither the amber list or red list controls, as defined in Section 722.181 appropriate.

- 2053
2054 e) ~~If a waste is hazardous under subsection (a) of this Section and it is not amber list~~
2055 ~~or red list waste, it is subject to the red list controls.~~
2056
2057 ~~cd)~~ The appropriate control procedures for hazardous wastes and hazardous waste
2058 mixtures are addressed in Section 722.182.
2059
2060 ~~de)~~ This subsection (~~de~~) corresponds with 40 CFR 262.89(e), which incorporates the
2061 OECD Guidance Manual ~~amber, green, and red lists~~ by reference. This statement
2062 maintains structural consistency with the corresponding federal regulations.
2063

2064 (Source: Amended at 35 Ill. Reg. _____, effective _____)
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2066 SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS WASTE
2067 DETERMINATION AND ACCUMULATION OF UNWANTED MATERIAL FOR
2068 LABORATORIES OWNED BY ELIGIBLE ACADEMIC ENTITIES
2069

2070 **Section 722.300 Definitions**
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2072 The following definitions apply for the purposes of this Subpart K:
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2074 "Central accumulation area" means an on-site hazardous waste accumulation area
2075 subject to Section 722.134(a) and (b), for a large quantity generator, or; Section
2076 722.134(d) through (f), for a small quantity generator; ~~or Section 722.134(j) and~~
2077 ~~(k) for a Performance Track member.~~ A central accumulation area at an eligible
2078 academic entity that chooses to be subject to this Subpart K must also comply
2079 with Section 722.311 when accumulating unwanted material or hazardous waste.
2080

2081 "College or University" means a private or public post-secondary degree-granting
2082 academic institution that is accredited by an accrediting agency listed annually by
2083 the U.S. Department of Education.

2084 BOARD NOTE: The Department of Education maintains on-line lists of
2085 accrediting agencies on the Internet at the following address: [www.ed.gov/
2086 admins/finaid/accred/accreditation_pg6.html#NationallyRecognized](http://www.ed.gov/admins/finaid/accred/accreditation_pg6.html#NationallyRecognized).
2087

2088 "Eligible academic entity" means a college or university, a non-profit research
2089 institute that is owned by or which has a formal written affiliation agreement with
2090 a college or university, or a teaching hospital that is owned by or which has a
2091 formal written affiliation agreement with a college or university.
2092

2093 "Formal written affiliation agreement" for a non-profit research institute means a
2094 written document that establishes a relationship between institutions for the
2095 purposes of research or education and which is signed by an authorized

2096 representative, as that term is defined in 35 Ill. Adm. Code 720.110, from each
 2097 institution. A relationship that exists on a project-by-project or grant-by-grant
 2098 basis is not considered a formal written affiliation agreement. "Formal written
 2099 affiliation agreement" for a teaching hospital means a "master affiliation
 2100 agreement" and "program letter of agreement," as these terms are defined in the
 2101 document entitled "Accreditation Council for Graduate Medical Education:
 2102 Glossary of Terms," incorporated by reference in 35 Ill. Adm. Code 720.111, with
 2103 an accredited medical program or medical school.

2104
 2105 "Laboratory" means an area owned by an eligible academic entity where
 2106 relatively small quantities of chemicals and other substances are used on a non-
 2107 production basis for teaching or research (or diagnostic purposes at a teaching
 2108 hospital) and are stored and used in containers that are easily manipulated by one
 2109 person. Photo laboratories, art studios, and field laboratories are laboratories
 2110 within the meaning of this definition. Areas such as chemical stockrooms and
 2111 preparatory laboratories that provide a support function to teaching or research
 2112 laboratories (or diagnostic laboratories at teaching hospitals) are also laboratories
 2113 within the meaning of this definition.

2114
 2115 "Laboratory clean-out" means an evaluation of the inventory of chemicals and
 2116 other materials in a laboratory that are no longer needed or which have expired
 2117 and the subsequent removal of those chemicals or other unwanted materials from
 2118 the laboratory. A clean-out may occur for several reasons. It may be on a routine
 2119 basis (e.g., at the end of a semester or academic year) or as a result of a
 2120 renovation, relocation, or change in laboratory supervisor or occupant. A
 2121 regularly scheduled removal of unwanted material, as required by Section
 2122 722.308, does not qualify as a laboratory clean-out within the meaning of this
 2123 definition.

2124
 2125 "Laboratory worker" means a person who handles chemicals or unwanted
 2126 material in a laboratory. This may include, but is not limited to, any member of
 2127 faculty or staff, a post-doctoral fellow, an intern, a researcher, a technician, a
 2128 supervisor or manager, or a principal investigator. A person does not need to be
 2129 paid or otherwise compensated for his or her work in the laboratory to be
 2130 considered a laboratory worker. An undergraduate or graduate student in a
 2131 supervised classroom setting is not a laboratory worker.

2132
 2133 "Non-profit research institute" means an organization that conducts research as its
 2134 primary function and which files as a nonprofit organization under ~~section~~Section
 2135 501(c)(3) of the federal tax code (26 USC 501(c)(3)).

2136

2137 "Reactive acutely hazardous unwanted material" means an unwanted material that
2138 is one of the acutely hazardous commercial chemical products listed in 35 Ill.
2139 Adm. Code 721.133(e) for reactivity.

2140
2141 "Teaching hospital" means a hospital that trains students to become physicians,
2142 nurses, or other health or laboratory personnel.

2143
2144 "Trained professional" means a person who has completed the applicable RCRA
2145 training requirements of 35 Ill. Adm. Code 725.116, for a large quantity
2146 generator, or who is knowledgeable about normal operations and emergencies in
2147 accordance with Section 722.134(d)(5)(C), for a small quantity generator or
2148 conditionally exempt small quantity generator. A trained professional may be an
2149 employee of the eligible academic entity or a contractor or vendor who meets the
2150 requisite training requirements.

2151
2152 "Unwanted material" means any chemical, mixtures of chemicals, products of
2153 experiments, or other material from a laboratory that is no longer needed, wanted,
2154 or usable in the laboratory and which is destined for hazardous waste
2155 determination by a trained professional. Unwanted material includes reactive
2156 acutely hazardous unwanted material, material that may eventually be determined
2157 not to be solid waste pursuant to 35 Ill. Adm. Code 721.102, or a hazardous waste
2158 pursuant to 35 Ill. Adm. Code 721.103. If an eligible academic entity elects to
2159 use another equally effective term in lieu of "unwanted material," as allowed by
2160 Section 722.306(a)(1)(A), the equally effective term will have the same meaning,
2161 and the material designated by that term will be subject to the same requirements
2162 as "unwanted material" under this Subpart K.

2163
2164 "Working container" means a small container (i.e., two gallons (7.6 ℓ) or less) that
2165 is in use at a laboratory bench, hood, or other work station, to collect unwanted
2166 material from a laboratory experiment or procedure.

2167
2168 (Source: Amended at 35 Ill. Reg. _____, effective _____)

2169
2170 **Section 722.303 Notice of Election into the Subpart K Requirements**

2171
2172 a) If an eligible academic entity elects to become subject to the requirements of this
2173 Subpart K, it must notify the Agency and USEPA Region 5 of this election in
2174 writing using the RCRA Subtitle C Site Identification Form (USEPA Form 8700-
2175 12) for all the laboratories that the eligible academic entity owns or operates
2176 under the same USEPA identification number. If the eligible academic entity is a
2177 conditionally exempt small quantity generator (CESQG) that does not have a
2178 USEPA identification number, the CESQG must notify the Agency and USEPA
2179 Region 5 that it has made this choice for all the laboratories that the eligible

2180 academic entity owns or operates that are onsite, as defined by 35 Ill. Adm. Code
2181 720.110. If the eligible academic entity has multiple USEPA identification
2182 numbers, or if it is a CESQG with multiple sites, it must submit a separate
2183 notification (using USEPA Form 8700-12) for each USEPA identification number
2184 (or site, for a CESQG) that it elects to become subject to the requirements of this
2185 Subpart K. The eligible academic entity must submit USEPA Form 8700-12 to
2186 the Agency and USEPA Region 5 before it begins operating under this Subpart K.
2187

2188 BOARD NOTE: Corresponding 40 CFR 262.203(a) requires the use of the
2189 "RCRA Subtitle C Site Identification Form (EPA Form 8700-12)." This is the
2190 title that appears on the face of the form. The title on the pre-pended instructions
2191 for USEPA Form 8700-12, however, is "Notification of RCRA Subtitle C
2192 Activity." USEPA Form 8700-12 is available from the Agency, Bureau of Land
2193 (217-782-6762). It is also available on-line for download in PDF file format:
2194 www.epa.gov/osw/inforesources/data/form8700/8700-12.pdf. Only the
2195 November 2009 version of USEPA Form 8700-12 includes a segment relating to
2196 the alternative standards for eligible academic entities.
2197

2198 b) When submitting USEPA Form 8700-12, the eligible academic entity must, at a
2199 minimum, fill out each of the following fields on the form:
2200

- 2201 "1. Reason for Submittal"
- 2202
- 2203 "2. Site EPA ID Number" (except for a conditionally exempt small quantity
2204 generator)
- 2205
- 2206 "3. Site Name"
- 2207
- 2208 "4. Site Location Information"
- 2209
- 2210 "5. Site Land Type"
- 2211
- 2212 "6. North American Industry Classification System (NAICS) Code(s) for the
2213 Site"
2214 BOARD NOTE: See the definition of "NAICS Code" in 35 Ill. Adm.
2215 Code 720.110.
- 2216
- 2217 "7. Site Mailing Address"
- 2218
- 2219 "8. Site Contact Person"
- 2220
- 2221 "9. Operator and Legal Owner of the Site"
- 2222

2223 "10. Type of Regulated Waste Activity"

2224

2225 "13. Certification"

2226

2227 c) An eligible academic entity must keep a copy of USEPA Form 8700-12, as filed
2228 with the Agency pursuant to subsection (a) of this Section, on file at the eligible
2229 academic entity for as long as its laboratories are subject to this Subpart K.

2230

2231 d) A teaching hospital that is not owned by a college or university must keep a copy
2232 of its formal written affiliation agreement with a college or university on file at
2233 the teaching hospital for as long as its laboratories are subject to this Subpart K.

2234

2235 e) A non-profit research institute that is not owned by a college or university must
2236 keep a copy of its formal written affiliation agreement with a college or university
2237 on file at the non-profit research institute for as long as its laboratories are subject
2238 to this Subpart K.

2239

2240 (Source: Amended at 35 Ill. Reg. _____, effective _____)

2241

2242 **Section 722.304 Notice of Withdrawal from the Subpart K Requirements**

2243

2244 a) If an eligible academic entity elects to no longer remain subject to the
2245 requirements of this Subpart K for all the laboratories that the eligible academic
2246 entity owns or operates under the same USEPA identification number, it elects to
2247 instead comply with the requirements set forth in Sections 722.111 and
2248 722.134(c), which are the generally applicable standards for small quantity
2249 generators and large quantity generators. An eligible academic entity must notify
2250 the Agency and USEPA Region 5 in writing of this election using the USEPA
2251 Form 8700-12. If the eligible academic entity is a CESQG that does not have a
2252 USEPA identification number, it must notify the Agency and USEPA Region 5
2253 that it has elected to withdraw from the requirements of this Subpart K for all of
2254 the laboratories that it owns or operates that are on-site. The eligible academic
2255 entity that is a CESQG that makes this election must comply with the conditional
2256 exemption in 35 Ill. Adm. Code 721.105(b). If the eligible academic entity has
2257 multiple USEPA identification numbers, or if it is a CESQG with multiple sites, it
2258 must submit a separate notification (using USEPA Form 8700-12) for each
2259 USEPA identification number (or site, for a CESQG) that it elects to withdraw
2260 from the requirements of this Subpart K. The eligible academic entity that
2261 chooses to withdraw from the requirements of this Subpart K must submit
2262 USEPA Form 8700-12 to the Agency and USEPA Region 5 before it begins
2263 operating under the requirements set forth in Sections 722.111 and 722.134(c),
2264 which are the generally applicable standards for small quantity generators and

2265 large quantity generators, or 35 Ill. Adm. Code 721.105(b), which are the
2266 generally applicable standards for conditionally exempt small quantity generators.
2267

2268 BOARD NOTE: Corresponding 40 CFR 262.204(a) requires the use of the
2269 "RCRA Subtitle C Site Identification Form (EPA Form 8700-12)." This is the
2270 title that appears on the face of the form. The title on the pre-pended instructions
2271 for USEPA Form 8700-12, however, is "Notification of RCRA Subtitle C
2272 Activity". USEPA Form 8700-12 is available from the Agency, Bureau of Land
2273 (217-782-6762). It is also available on-line for download in PDF file format:
2274 www.epa.gov/osw/inforesources/data/form8700/8700-12.pdf. Only the
2275 November 2009 version of USEPA Form 8700-12 includes a segment relating to
2276 the alternative standards for eligible academic entities.
2277

2278 b) When submitting USEPA Form 8700-12, the eligible academic entity must, at a
2279 minimum, fill out each of the following fields on the form:

- 2280 "1. Reason for Submittal"
- 2281
- 2282 "2. Site EPA ID Number" (except for a conditionally exempt small quantity
2283 generator)
- 2284
- 2285 "3. Site Name"
- 2286
- 2287 "4. Site Location Information"
- 2288
- 2289 "5. Site Land Type"
- 2290
- 2291 "6. North American Industry Classification System (NAICS) Code(s) for the
2292 Site"
- 2293 BOARD NOTE: See the definition of "NAICS Code" in 35 Ill. Adm.
2294 Code 720.110.
- 2295
- 2296 "7. Site Mailing Address"
- 2297
- 2298 "8. Site Contact Person"
- 2299
- 2300 "9. Operator and Legal Owner of the Site"
- 2301
- 2302 "10. Type of Regulated Waste Activity"
- 2303
- 2304
- 2305 "13. Certification"
- 2306

2307 c) An eligible academic entity must keep a copy of USEPA Form 8700-12, as filed
2308 with the Agency pursuant to subsection (a) of this Section, on file at the eligible
2309 academic entity for three years after the date of the notification of withdrawal.
2310

2311 (Source: Amended at 35 Ill. Reg. _____, effective _____)
2312

2313 **Section 722.306 Container Standards in the Laboratory**
2314

2315 An eligible academic entity must manage containers of unwanted material while in the
2316 laboratory in accordance with the requirements in this Section.
2317

2318 a) Labeling: The eligible academic entity must label containers of unwanted
2319 material as follows:
2320

2321 1) The following information must be affixed or attached to the container:
2322

2323 A) The words "unwanted material," or another equally effective term
2324 that is to be used consistently by the eligible academic entity and
2325 that is identified in Part I of the Laboratory Management Plan; and
2326

2327 B) Sufficient information to alert emergency responders to the
2328 contents of the container. Examples of information that would be
2329 sufficient to alert emergency responders to the contents of the
2330 container include, but are not limited to, the following:
2331

2332 i) The name of the chemicals; or
2333

2334 ii) The type or class of chemicals, such as organic solvents or
2335 halogenated organic solvents.
2336

2337 2) The following information may be affixed or attached to the container, but
2338 must be associated with the container if not attached to it:
2339

2340 A) The date on which the unwanted material first began accumulating
2341 in the container; and
2342

2343 B) Information sufficient to allow a trained professional to properly
2344 identify whether an unwanted material is a solid waste and a
2345 hazardous waste and to assign the proper hazardous waste codes to
2346 the material, pursuant to Section 722.111. Examples of
2347 information that would allow a trained professional to properly
2348 identify whether an unwanted material is a solid waste and
2349 hazardous waste include, but are not limited to, the following:

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- 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 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
- 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

2435 attached to the container, if that is preferred) before the hazardous waste
 2436 may be treated or disposed of on-site or transported off-site;

2437
 2438 3) It must count the hazardous waste toward the amount used to determine
 2439 the eligible academic entity's generator status, pursuant to 35 Ill. Adm.
 2440 Code 721.105(c) and (d) in the calendar month that the hazardous waste
 2441 determination was made; and

2442
 2443 4) It must manage the hazardous waste according to all applicable hazardous
 2444 waste regulations.
 2445

2446 (Source: Amended at 35 Ill. Reg. _____, effective _____)
 2447

2448 **Section 722.314 Laboratory Management Plan**
 2449

2450 An eligible academic entity must develop and retain a written Laboratory Management Plan, or
 2451 revise an existing written plan. The Laboratory Management Plan is a site-specific document
 2452 that describes how the eligible academic entity will manage unwanted materials in compliance
 2453 with this Subpart K. An eligible academic entity may write one Laboratory Management Plan
 2454 for all of the laboratories that it owns ~~that~~ which have opted into this Subpart K, even if the
 2455 laboratories are located at sites with different USEPA identification numbers. The Laboratory
 2456 Management Plan must contain two parts, with a total of the nine elements identified in
 2457 subsections (a) and (b) of this Section. In Part I of its Laboratory Management Plan, an eligible
 2458 academic entity must describe its procedures for each of the elements listed in subsection (a) of
 2459 this Section. An eligible academic entity must implement and comply with the specific
 2460 provisions that it develops to address the elements in Part I of its Laboratory Management Plan.
 2461 In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best
 2462 management practices for each of the elements listed in subsection (b) of this Section. The
 2463 specific actions taken by an eligible academic entity to implement each element in Part II of its
 2464 Laboratory Management Plan may vary from the procedures described in the eligible academic
 2465 entity's Laboratory Management Plan, without constituting a violation of this Subpart K. An
 2466 eligible academic entity may include additional elements and best management practices in Part
 2467 II of its Laboratory Management Plan if it so chooses.
 2468

2469 a) The eligible academic entity must implement and comply with the specific
 2470 provisions of Part I of its Laboratory Management Plan. In Part I of its
 2471 Laboratory Management Plan, an eligible academic entity must include the
 2472 following information:
 2473

2474 1) Part I must describe procedures for container labeling in accordance with
 2475 Section 722.306(a), as follows ~~that includes the following~~:
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- 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);
 - 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:

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- 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:
- 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.

- 2561 c) An eligible academic entity must make its Laboratory Management Plan available
- 2562 to laboratory workers, students, or any others at the eligible academic entity who
- 2563 may request it.
- 2564
- 2565 d) An eligible academic entity must review and revise its Laboratory Management
- 2566 Plan as needed.
- 2567

2568 (Source: Amended at 35 Ill. Reg. _____, effective _____)

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

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 ~~Tracking~~-Movement Document

722.185 Contracts

722.186 Provisions Relating to Recognized Traders

722.187 Reporting and Recordkeeping

722.189 OECD Waste Lists

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

Section

722.300 Definitions

722.301 Applicability

722.302 Opting into the Subpart K Requirements

722.303 Notice of Election into the Subpart K Requirements

722.304 Notice of Withdrawal from the Subpart K Requirements

722.305 Summary of the Requirements of this Subpart K

722.306 Container Standards in the Laboratory

722.307 Personnel Training

722.308 Removing Unwanted Material from the Laboratory

722.309 Hazardous Waste Determination and Removal of Unwanted Material from
the Laboratory

722.310 Hazardous Waste Determination in the Laboratory

722.311 Hazardous Waste Determination at an On-Site Central Accumulation
Area

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

722.313 Laboratory Clean-Outs

722.314 Laboratory Management Plan

722.315 Unwanted Material That Is Not Solid Waste or Hazardous Waste

722.316 Non-Laboratory Hazardous Waste Generated at an Eligible Academic
Entity

722.APPENDIX A Hazardous Waste Manifest

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. _____, 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~~ 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. Subpart H of this Part. is subject to the hazardous waste manifesting requirements of this Part or the universal waste management standards of 35 Ill. Adm. Code 733. to or from countries listed in Section 722.158(a)(1) for recovery. must comply with Subpart H of this Part.~~

BOARD NOTE: USEPA used identical language in corresponding 40 ~~C.F.R.~~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"; add a definition in Section 722.181, the centralized listing of ~~definition~~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 that~~ 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, 724,~~ 725, 727, or ~~728, 733, or 739~~728 with respect to ~~such~~those 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.

l) 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 (1)(1) and (1)(2) of this Section, except as specifically otherwise provided in Subpart K of this Part. For purposes of this subsection (1), 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 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~~733 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.

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;

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

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 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.

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)~~ 35 Ill. Adm. Code 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.

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.

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 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;

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, 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.

l) 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, ~~92,12992~~, 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;~~

~~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~~

~~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:~~

~~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.~~

k) This subsection (k) corresponds 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, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.

~~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 (k1) This subsection (l) corresponds with 40 CFR 262.34(k1), 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, 12992, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements. l) 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, 92, note 1 (Mar. 18, 2010). This statement maintains maintain 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 _____)

SUBPART D: RECORDKEEPING AND REPORTING

~~Section 722.141 Annual Reporting~~

~~a) A generator that ships any hazardous waste off site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of an annual report to the Agency by March 1 for the preceding calendar year. The annual report must be submitted on a form supplied by the Agency, and must cover generator activities during the previous calendar year, and must include the following information:~~

- ~~1) The USEPA identification number, name, and address of the generator;~~
- ~~2) The calendar year covered by the report;~~
- ~~3) The USEPA identification number, name, and address for each off site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;~~
- ~~4) The name and USEPA identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility within the United States;~~
- ~~5) A description, USEPA hazardous waste number (from Subpart C or D of 35 Ill. Adm. Code 721), USDOT hazard class and quantity of each hazardous waste shipped off site for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by USEPA identification number of each off site facility to which waste was shipped;~~
- ~~6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;~~
- ~~7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and~~
- ~~8) The certification signed by the generator or the generator's authorized representative.~~

~~b) Any generator that treats, stores, or disposes of hazardous waste on site must submit an annual report covering those wastes in accordance with the provisions of 35 Ill. Adm. Code 702, 703, and 724 through 727. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth at Section 722.156.~~

~~(Source: Amended at 35 Ill. Reg. _____, effective _____)~~

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 §40 CFR 261.31 or ~~§ 261.33(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 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 §40 CFR 261.31 or ~~§ 261.33(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 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.

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, wherewhen 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 ~~35 Ill. Adm. Code 725.172(e)(1) through (e)(6)~~). For purposes of generator compliance with subsection (a) or (b) of this Section, wherewhen 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 722.155—Exception Report~~

~~a) In lieu of the requirements of Section 722.142, a primary exporter must file an exception report with USEPA as provided by federal 40 CFR 262.55 (Exception Reports), incorporated by reference in 35 Ill. Adm. Code 720.111(b).~~

~~b) The primary exporter must send a copy of the exception report to the Agency.~~

~~(Source: Amended at 35 Ill. Reg. _____, effective _____)~~

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, 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: ~~BOARD NOTE:~~ USEPA used identical language in 40 ~~C.F.R.~~ 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 ~~definition~~ 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.

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.

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:~~ BOARD NOTE: USEPA used identical language in 40 C.F.R. 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 ~~definition~~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.

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~~that 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 in~~ 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 ~~Procedures~~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.

"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 ~~therein in that county.~~

"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 ~~them~~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 in Section C of Annex A ("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.

~~"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 ~~C.F.R.~~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, ~~41, 47~~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 ~~C.F.R.~~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 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~~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 ~~C.F.R.~~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 ~~C.F.R.~~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 ~~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,
- 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~~that 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 ~~C.F.R.~~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; ~~to~~ add a definition in this Section, the centralized listing of ~~definition~~definitions for Subpart H of this Part; and ~~to~~ replace USEPA's defining language in 40 ~~C.F.R.~~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).~~ 722.181.

~~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.

~~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.~~ this Subpart H.

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~~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~~that 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.

~~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 restrictions continue to apply ~~without~~ with regard to 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 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~~the 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~~the 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~~the 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 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.~~

~~322)~~ 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.

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:

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 ~~\$40~~ CFR 262.83(b) (1) (i) of the need to return the shipment. USEPA will then inform the competent authority of the country of export, citing the ~~reason(s)~~ reasons for returning the waste. The U.S. transporter must complete the return within ~~ninety~~ ~~(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 ~~Member~~ 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 ~~of~~after the receipt of the wastes by a facility engaged in an 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 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 certain quantities and destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery operations. The quantity of ~~such~~the 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, and wastes subject to red list controls~~that are not OECD-listed waste 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 (de) 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 "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.

A) Notification. The ~~notifier~~-exporter must provide USEPA and the Agency a notification that contains all of the information identified in subsection (e)d) 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 countries~~country concerned ~~countries~~ objects has objected to the shipment.

c) ~~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.~~d) ~~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 that~~ 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 (e)b) 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 §40 CFR 262.89(d), and ~~which that~~ 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~~d) 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~~operations R12 or waste accumulation recovery ~~operation~~operations 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;

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), 12)~~ 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) ~~Specification~~The specification of the recovery operations, as defined in Section ~~722.181~~722.181; ~~and~~

~~121414~~) A Certification/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.

Name: _____ Signature: _____ Date: -

BOARD NOTE: The ~~U.S.~~ United StatesState 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~~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~~affirming 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) 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~~+~~.";

"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 ~~aan~~ 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.

(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

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~~ 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~~that 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 §40 CFR 262.84 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 destined for recovery within the designated OECD member countries is contained in a separate Section.)- ~~Such~~The 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:

"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~~that 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~~that 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~~-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;

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.

c) ~~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.~~
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~~ 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 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/?findaid/?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.

"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, 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 (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. 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.

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 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. 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 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 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 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

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~~that 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 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);

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:

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 _____)
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~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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<u>Insertion</u>	
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Padding cell	

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