

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standards Applicable to Transporters of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 723
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
723.120	Amendment
723.121	Amendment
- 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 723 are a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720 through 722, 724, and 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of July 26, 2018, proposing amendments in docket R19-3, which opinion and order is available from the address below.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary. Some of these were included in the pending consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking, which appeared in the following issues of the *Illinois Register* as indicated in the answer to question 10 below.

Specifically, the amendments to Part 723 incorporate changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R19-3. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in docket R19-3.

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

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Pollution Control Board

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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) Does this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
723.110	Amendment	42 Ill. Reg. 10999; June 22, 2018
723.112	Amendment	42 Ill. Reg. 10999; June 22, 2018
723.120	Amendment	42 Ill. Reg. 10999; June 22, 2018
723.121	Amendment	42 Ill. Reg. 10999; June 22, 2018
723.125	Amendment	42 Ill. Reg. 10999; June 22, 2018

- 11) 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 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 R19-3 and be addressed to:

Don A. Brown, 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 R19-3:

Michael J. McCambridge

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

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

Phone: 312/814-6924  
E-mail: michael.mccambridge@illinois.gov

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 disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. 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)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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 723  
7 STANDARDS APPLICABLE TO  
8 TRANSPORTERS OF HAZARDOUS WASTE  
9

10 SUBPART A: GENERAL  
11

12 Section

- 13 723.110 Scope  
14 723.111 USEPA Identification Number  
15 723.112 Transfer Facility Requirements  
16 723.113 Electronic Reporting  
17

18 SUBPART B: COMPLIANCE WITH THE MANIFEST  
19 SYSTEM AND RECORDKEEPING  
20

21 Section

- 22 723.120 The Manifest System  
23 723.121 Compliance with the Manifest  
24 723.122 Recordkeeping  
25 723.125 Electronic Manifest Signatures  
26

27 SUBPART C: HAZARDOUS WASTE DISCHARGES  
28

29 Section

- 30 723.130 Immediate Action  
31 723.131 Discharge Cleanup  
32

33 AUTHORITY: Implementing Section 7.2 and 22.4 and authorized by Section 27 of the  
34 Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].  
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36 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and  
37 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg.  
38 11961, effective July 24, 1985; amended in R86-19 at 10 Ill. Reg. 20718, effective December 2,  
39 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at  
40 11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945,  
41 effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective  
42 December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965, effective September  
43 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006;

44 amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 881, effective December 20, 2006; amended  
45 in R07-5/R07-14 at 32 Ill. Reg. 11969, effective July 14, 2008; amended in R11-2/R11-16 at 35  
46 Ill. Reg. 17959, effective October 14, 2011; amended in R15-1 at 39 Ill. Reg. 1711, effective  
47 January 12, 2015; amended in R19-2 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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49 SUBPART B: COMPLIANCE WITH THE MANIFEST  
50 SYSTEM AND RECORDKEEPING  
51

52 **Section 723.120 The Manifest System**  
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- 54 a) No acceptance without a manifest.  
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56 1) Manifest requirement. A transporter may not accept hazardous waste  
57 from a generator unless the transporter is also provided with a manifest  
58 form (USEPA Form 8700-22, and if necessary, USEPA Form 8700-22A)  
59 signed in accordance with the provisions of 35 Ill. Adm. Code 723.123, or  
60 is provided with an e-Manifest that is obtained, completed, and transmitted  
61 in accordance with 35 Ill. Adm. Code 722.120(a)(3) and signed with a  
62 valid and enforceable electronic signature as described in 35 Ill. Adm.  
63 Code 722.125.  
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65 2) Exports.  
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67 A) In the case of exports other than those subject to Subpart H of 35  
68 Ill. Adm. Code 722, a transporter may not accept such waste from  
69 a primary exporter or other person if the transporter knows that the  
70 shipment does not conform to the USEPA Acknowledgement of  
71 Consent; and unless, in addition to a manifest signed by the  
72 generator in accordance with this Section, the transporter must also  
73 be provided with a USEPA Acknowledgement of Consent that,  
74 except for shipment by rail, is attached to the manifest (or shipping  
75 paper for exports by water (bulk shipment)).  
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77 B) For exports of hazardous waste subject to Subpart H of 35 Ill.  
78 Adm. Code 722, a transporter may not accept hazardous waste  
79 without a tracking document that includes all information required  
80 by 35 Ill. Adm. Code 722.184.  
81  
82 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an  
83 applicability statement that became obsolete for the purposes of the  
84 Illinois rules on September 6, 2006. This statement maintains structural  
85 parity with the corresponding federal regulations.  
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- 4) Use of e-Manifest – legal equivalence to paper forms for participating transporters. E-Manifests that are obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.
- A) Any requirement in 35 Ill. Adm. Code 720 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
  - B) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
  - C) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that, to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a hazardous waste transporter must carry one printed copy of the e-Manifest on the transport vehicle.
  - D) Any requirement in 35 Ill. Adm. Code 720 through 728 for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an e-Manifest in the transporter's account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized state inspector.
  - E) No transporter may be held liable for the inability to produce an e-Manifest for inspection under this Section if that transporter can demonstrate that the inability to produce the e-Manifest is exclusively due to a technical difficulty with the USEPA e-Manifest System for which the transporter bears no responsibility.

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BOARD NOTE: The Board has rendered the language "any requirement in these regulations" in corresponding 40 CFR 723.20(a)(4)(A) through (a)(4)(D) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a)(4).

- 5) A transporter may participate in the e-Manifest System either by accessing the e-Manifest System from the transporter's own electronic equipment, or by accessing the e-Manifest System from the equipment provided by a participating generator, by another transporter, or by a designated facility.
  
- 6) Special procedures when e-Manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the e-Manifest System should become unavailable for any reason, then the following requirements apply:
  - A) The transporter in possession of the hazardous waste when the e-Manifest becomes unavailable must reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to subsection (a)(4)(C)(i) ~~of this Section~~, or obtain and complete another paper manifest for this purpose. The transporter must reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.
  
  - B) On each printed copy, the transporter must include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the e-Manifest System, must include (if not pre-printed on the replacement manifest) the manifest tracking number of the e-Manifest that is replaced by the paper manifest, and must also include a brief explanation why the e-Manifest was not available for completing the tracking of the shipment electronically.
  
  - C) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.
  
  - D) From the point at which the e-Manifest is no longer available for tracking the waste shipment, the paper replacement manifest

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copies must be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

- 7) Special procedures for electronic signature methods undergoing tests. If a transporter using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter must sign the e-Manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with subsection (a)(4)(C)(i) ~~of this Section~~. This printed copy bearing the generator's and transporter's ink signatures must also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner or operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy must be delivered to the designated facility with the waste materials.
  
- 8) This subsection (a)(8) corresponds with 40 CFR 263.20(a)(8), which USEPA has removed and marked "reserved". This statement maintains consistency with the corresponding federal rules. ~~Imposition of user fee for e-Manifest use. A transporter that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. USEPA has stated that it will maintain and update from time-to-time the current schedule of e-Manifest user fees, which must be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has stated that it will publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~
  
- 9) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. A transporter may participate electronically in the post-receipt data corrections process by following the process described in 35 Ill. Adm. Code 724.171(l), which applies to corrections made to either paper or electronic manifest records.

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- b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
  - c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the USEPA Acknowledgement of Consent also accompanies the hazardous waste.
  - d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:
    - 1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;
    - 2) It must retain one copy of the manifest in accordance with Section 723.122; and
    - 3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.
  - e) Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:
    - 1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;
    - 2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste;
    - 3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;
    - 4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

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- 5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 723.122.
  - f) For shipments involving rail transportation, the following requirements apply instead of subsections (c), (d), and (e), which do not apply:
    - 1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must do the following:
      - A) It must sign and date the manifest acknowledging acceptance of the hazardous waste;
      - B) It must return a signed copy of the manifest to the non-rail transporter;
      - C) It must forward at least three copies of the manifest to the following entities:
        - i) The next non-rail transporter, if any;
        - ii) The designated facility, if the shipment is delivered to that facility by rail; or
        - iii) The last rail transporter designated to handle the waste in the United States;
      - D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.
    - 2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste at all times.

292 BOARD NOTE: Intermediate rail transporters are not required to sign either the  
293 manifest or shipping paper.

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- 3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:
    - A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the

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shipping paper (if the manifest has not been received by the facility); and

B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.

4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:

A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

B) It must retain a copy of the manifest in accordance with Section 723.122.

5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.

g) Transporters that transport hazardous waste out of the United States must do the following:

1) Sign and date the manifest in the International Shipments block to indicate the date that the hazardous waste left the United States;

2) Retain one copy in accordance with Section 723.122(d);

3) Return a signed copy of the manifest to the generator; and

4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

h) A transporter transporting hazardous waste from a generator that generates greater than 100 ~~kg (220 lbs)~~kilograms but less than 1,000 ~~kg (2,200 lbs)~~kilograms of hazardous waste in a calendar month need not comply with this Section or Section 723.122 provided that:

1) The waste is being transported pursuant to a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);

2) The transporter records, on a log or shipping paper, the following information for each shipment:

- 343 A) The name, address and USEPA Identification Number (35 Ill.  
344 Adm. Code 722.112) of the generator of the waste;
- 345
- 346 B) The quantity of waste accepted;
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- 348 C) All shipping information required by the United States Department  
349 of Transportation;
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- 351 D) The date the waste is accepted; and
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- 353 3) The transporter carries this record when transporting waste to the  
354 reclamation facility; and
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- 356 4) The transporter retains these records for a period of at least three years after  
357 termination or expiration of the agreement.
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359 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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361 **Section 723.121 Compliance with the Manifest**

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- 363 a) Except as provided in subsection (b), theThe transporter must deliver the entire  
364 quantity of hazardous waste which ithe has accepted from a generator or a  
365 transporter to:  
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  - 367 1) The designated facility listed on the manifest; or
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  - 369 2) The alternate designated facility, if the hazardous waste cannot be  
370 delivered to the designated facility because an emergency prevents  
371 delivery; or
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  - 373 3) The next designated transporter; or
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  - 375 4) The place outside the United States designated by the generator.
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- 377 b) Non-Delivery of the Hazardous Waste~~Non-delivery of the hazardous waste.~~  
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  - 379 1) Emergency Condition. If the hazardous waste cannot be delivered in  
380 accordance with subsection (a)(1), (a)(2), or (a)(4) of this Section because  
381 of an emergency condition other than rejection of the waste by the  
382 designated facility or alternate designated facility, then the transporter  
383 must contact the generator for further instructions~~directions~~ and must  
384 revise the manifest according to the generator's instructions.
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- 2) Transporters Without Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if the conditions of either subsections (b)(2)(A) and (b)(2)(C) or subsections (b)(2)(B) and (b)(2)(C) are true:
- A) The hazardous waste is not delivered in accordance with subsection (a)(3) because of an emergency condition; or
  - B) The current transporter proposes to change the transporters designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and
  - C) The generator authorizes the revision.
- 3) Transporters with Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporters designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that all of the following conditions are true:
- A) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;
  - B) The transporter enters, in Item 14 of each manifest for which such a change is made, the following statement of its generator-agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf"; and
  - C) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

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4) Generator Liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under subsection (b)(3) does not affect the generator's liability or responsibility for complying with any applicable requirement under 35 Ill. Adm. Code, or grant any additional authority to the transporter to act on behalf of the generator.

c2) If hazardous waste is rejected by the designated facility while the transporter is on the premises of the designated facility, then the transporter must obtain the following, as appropriate:

1A) For a partial load rejection or for regulated quantities of container residues: a copy of the original manifest that includes the facility's date and signature, the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with Section 723.122 and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).

2B) For a full load rejection that will be taken back by the transporter: a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and USEPA identification number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with Section 723.122, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## BOARD OF HIGHER EDUCATION

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Nursing School Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 1100
- 3) 

<u>Section Numbers</u> :	<u>Emergency Actions</u> :
1100.100	Amendment
1100.200	Amendment
1100.300	Amendment
1100.400	Amendment
1100.420	New Section
1100.440	New Section
1100.460	New Section
1100.480	New Section
1100.500	Repealed
1100.600	Repealed
1100.700	Amendment
1100.800	Repealed
1100.900	New Section
- 4) Statutory Authority: Implementing and authorized by Section 9.31 of the Board of Higher Education Act [110 ILCS 205/9.31].
- 5) Effective Date of Rules: August 6, 2018
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Upon adoption of the identical proposed amendments filed concurrently with this emergency rule.
- 7) Date Filed with the Index Department: August 6, 2018
- 8) A copy of this Emergency Amendment, including any material incorporated by reference, is on file in the Board's principal office and is available for public inspection.
- 9) Reason for Emergency: Emergency amendments are necessary to implement needed changes prior to releasing grant applications for the current fiscal year program. These amendments do not change the intent and standards of the original grant program. Proposed Amendments will be submitted for publication in the *Illinois Register*.
- 10) A Complete Description of the Subjects and Issues Involved: These amendments address two issues. First, on-going reductions in State funding have hampered the ability to

## BOARD OF HIGHER EDUCATION

## NOTICE OF EMERGENCY AMENDMENTS

provide grants in the current structure. The original rules were created with an appropriation of \$1.5 million and divided the funding into two categories of grants, expansion and improvement. However, the current funding is 75 percent less which requires a more flexible structure to award grants that will help increase the number of registered nurses graduating in Illinois.

Second, the priority will be placed on funding proposed partnerships between community colleges and 4-year institutions to help address the call to provide baccalaureate training for registered nurses in regions throughout the State. The partnerships will help to provide students with seamless transitions between institutions.

- 11) Are there any rulemakings to this Part pending? No
- 12) Statement of Statewide Policy Objective: The emergency rule does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805/3].
- 13) Information and questions regarding these emergency rules shall be directed to:

Karen Helland, Administrative Rules Coordinator  
Illinois Board of Higher Education  
1 N. Old State Capitol Plaza, Suite 333  
Springfield IL 62701

217/557-7358  
email: Helland@ibhe.org  
fax: 217/782-8548

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

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

PART 723  
STANDARDS APPLICABLE TO  
TRANSPORTERS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section  
723.110 Scope  
723.111 USEPA Identification Number  
723.112 Transfer Facility Requirements  
723.113 Electronic Reporting

SUBPART B: COMPLIANCE WITH THE MANIFEST  
SYSTEM AND RECORDKEEPING

Section  
723.120 The Manifest System  
723.121 Compliance with the Manifest  
723.122 Recordkeeping  
723.125 Electronic Manifest Signatures

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section  
723.130 Immediate Action  
723.131 Discharge Cleanup

AUTHORITY: Implementing Section 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 R84-9 at 9 Ill. Reg. 11961, effective July 24, 1985; amended in R86-19 at 10 Ill. Reg. 20718, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965, effective September 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 881, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11969, effective July 14, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 17959, effective October 14, 2011; amended in R15-1 at 39 Ill. Reg. 1711, effective January 12, 2015; amended in R19-2 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: COMPLIANCE WITH THE MANIFEST  
SYSTEM AND RECORDKEEPING

Section 723.120 The Manifest System

a) No acceptance without a manifest.

1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest form (USEPA Form 8700-22, and if necessary, USEPA Form 8700-22A) signed in accordance with the provisions of 35 Ill. Adm. Code 723.123, or is provided with an e-Manifest that is obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3) and signed with a valid and enforceable electronic signature as described in 35 Ill. Adm. Code 722.125.

2) Exports.

A) In the case of exports other than those subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept such waste from a primary exporter or other person if the transporter knows that the shipment does not conform to the USEPA Acknowledgement of Consent; and unless, in addition to a manifest signed by the generator in accordance with this Section, the transporter must also be provided with a USEPA Acknowledgement of Consent that, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

B) For exports of hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a tracking document that includes all information required by 35 Ill. Adm. Code 722.184.

3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.

4) Use of e-Manifest - legal equivalence to paper forms for participating transporters. E-Manifests that are obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.

A) Any requirement in 35 Ill. Adm. Code 720 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.

B) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person by submission to the e-Manifest System.

C) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that, to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a hazardous waste transporter must carry one printed copy of the e-Manifest on the transport vehicle.

D) Any requirement in 35 Ill. Adm. Code 720 through 728 for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an e-Manifest in the transporter's account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized state inspector.

E) No transporter may be held liable for the inability to produce an e-Manifest for inspection under this Section if that transporter can demonstrate that the inability to produce the e-Manifest is exclusively due to a technical difficulty with the USEPA e-Manifest System for which the transporter bears no responsibility.

BOARD NOTE: The Board has rendered the language "any requirement in these regulations" in corresponding 40 CFR 723.20(a)(4)(A) through (a)(4)(D) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a)(4).

5) A transporter may participate in the e-Manifest System either by accessing the e-Manifest System from the transporter's own electronic equipment, or by accessing the e-Manifest System from the equipment provided by a participating generator, by another transporter, or by a designated facility.

6) Special procedures when e-Manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the e-Manifest System should become unavailable for any reason, then the following requirements apply:

A) The transporter in possession of the hazardous waste when the e-Manifest becomes unavailable must reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to subsection (a)(4)(C)(i) ~~of this Section~~, or obtain and complete another paper manifest for this purpose. The transporter must reproduce sufficient copies to provide the transporter and all subsequent waste

handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.

B) On each printed copy, the transporter must include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the e-Manifest System, must include (if not pre-printed on the replacement manifest) the manifest tracking number of the e-Manifest that is replaced by the paper manifest, and must also include a brief explanation why the e-Manifest was not available for completing the tracking of the shipment electronically.

C) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.

D) From the point at which the e-Manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies must be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

7) Special procedures for electronic signature methods undergoing tests. If a transporter using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter must sign the e-Manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with subsection (a)(4)(C)(i) ~~of this Section~~. This printed copy bearing the generator's and transporter's ink signatures must also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner or operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy must be delivered to the designated facility with the waste materials.

8) This subsection ~~(ga)(8)~~ corresponds with 40 CFR 263.20(a)(8), which USEPA has removed and marked "reserved". This statement maintains consistency with the corresponding federal rules. ~~Imposition of user fee for e-Manifest use. A transporter that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. USEPA has stated that it will maintain and update from time to time the current schedule of e-Manifest user fees, which must be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has stated that it will publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~

9) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. A transporter may participate electronically in the post-receipt data corrections process by following the process described in 35 Ill. Adm. Code 724.171(1), which applies to corrections made to either paper or electronic manifest records.

b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the USEPA Acknowledgement of Consent also accompanies the hazardous waste.

d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:

1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;

2) It must retain one copy of the manifest in accordance with Section 723.122; and

3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.

e) Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:

1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;

2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste;

3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;

4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 723.122.

f) For shipments involving rail transportation, the following requirements apply instead of subsections (c), (d), and (e), which do not apply:

1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must do the following:

A) It must sign and date the manifest acknowledging acceptance of the hazardous waste;

B) It must return a signed copy of the manifest to the non-rail transporter;

C) It must forward at least three copies of the manifest to the following entities:

i) The next non-rail transporter, if any;

ii) The designated facility, if the shipment is delivered to that facility by rail; or

iii) The last rail transporter designated to handle the waste in the United States;

D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.

2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste at all times.

BOARD NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.

3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:

A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.

4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:

A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

B) It must retain a copy of the manifest in accordance with Section 723.122.

5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.

g) Transporters that transport hazardous waste out of the United States must do the following:

1) Sign and date the manifest in the International Shipments block to indicate the date that the hazardous waste left the United States;

2) Retain one copy in accordance with Section 723.122(d);

3) Return a signed copy of the manifest to the generator; and

4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

h) A transporter transporting hazardous waste from a generator that generates greater than 100 kg (220 lbs) ~~kilograms~~ but less than 1,000 kg (2,200 lbs) ~~kilograms~~ of hazardous waste in a calendar month need not comply with this Section or Section 723.122 provided that:

1) The waste is being transported pursuant to a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);

2) The transporter records, on a log or shipping paper, the following information for each shipment:

A) The name, address and USEPA Identification Number (35 Ill. Adm. Code 722.112) of the generator of the waste;

B) The quantity of waste accepted;

C) All shipping information required by the United States Department of Transportation;

D) The date the waste is accepted; and

3) The transporter carries this record when transporting waste to the reclamation facility; and

4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 723.121 Compliance with the Manifest

a) Except as provided in subsection (b), the ~~The~~ transporter must deliver the entire quantity of hazardous waste which it ~~he~~ has accepted from a generator or a transporter to:

- 1) The designated facility listed on the manifest; or
- 2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
- 3) The next designated transporter; or
- 4) The place outside the United States designated by the generator.

b) Non-Delivery of ~~The~~the Hazardous Waste. ~~Non-delivery of the hazardous waste.~~

1) Emergency Condition. If the hazardous waste cannot be delivered in accordance with subsection (a)(1), (a)(2), or (a)(4) ~~(a) of this Section~~ because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact the generator for further instructions ~~directions~~ and must revise the manifest according to the generator's instructions.

2) Transporters Without Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if the conditions of either subsections (b)(2)(A) and (b)(2)(C) or subsections (b)(2)(B) and (b)(2)(C) are true:

A) The hazardous waste is not delivered in accordance with subsection (a)(3) because of an emergency condition; or

B) The current transporter proposes to change the transporters designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

C) The generator authorizes the revision.

3) Transporters with Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporters designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that all of the following conditions are true:

A) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

B) The transporter enters, in Item 14 of each manifest for which such a change is made, the following statement of its generator-agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf"; and

C) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

4) Generator Liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under subsection (b)(3) does not affect the generator's liability or responsibility for complying with any applicable requirement under 35 Ill. Adm. Code, or grant any additional authority to the transporter to act on behalf of the generator.

c2) If hazardous waste is rejected by the designated facility while the transporter is on the premises of the designated facility, then the transporter must obtain the following, as appropriate:

1A) For a partial load rejection or for regulated quantities of container residues: a copy of the original manifest that includes the facility's date and signature, the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with Section 723.122 and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).

2B) For a full load rejection that will be taken back by the transporter: a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the

description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and USEPA identification number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with Section 723.122, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective

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~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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