

## 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 consolidated docket R20-3/R20-11 rulemaking that also affects 35 Ill. Adm. Code 702, 705, 720 through 722, 724 through 726, 728, 733, 810, and 811. The consolidated R20-3/R20-11 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during 2019. A comprehensive description is contained in the Board's opinion and order of May 21, 2020, proposing amendments in consolidated docket R20-3/R20-11, which opinion and order is available from the address below.

The Notice of Proposed Amendments for 35 Ill. Adm. Code 702, which also appears in this issue of the *Illinois Register* summarizes the broader rulemaking that is consolidated docket R20-3/R20-11. The Board directs attention to that Notice for elaboration.

Specifically, the amendments to Part 723 incorporate needed corrections in rule not directly related to USEPA amendments, including a correction to prior amendments requested by the Joint Committee on Administrative Rules (JCAR).

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R20-3/R20-11. 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 consolidated docket R20-3/R20-11.

Sections 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 JCAR.

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- 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? No
- 11) Statement of Statewide Policy Objective: 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 consolidated docket R20-3/R20-11 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 consolidated docket R20-3/R20-11:

Michael J. McCambridge  
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Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's Website at [pcb.illinois.gov](http://pcb.illinois.gov)

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- 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) Small Business Impact Analysis: Sections 1-5(c) and 5-30 of the Administrative Procedure Act [5 ILCS 100/1-5(c) and 5-30] provide that small business impact analysis and related requirements under Section 5-30 do not apply to this type of identical-in-substance rulemaking.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2020

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  
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10 SUBPART A: GENERAL  
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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

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27 SUBPART C: HAZARDOUS WASTE DISCHARGES  
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29	Section	
30	723.130	Immediate Action
31	723.131	Discharge Cleanup

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33 AUTHORITY: Implementing Sections 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 R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 22595, effective  
 48 November 19, 2018; amended in R19-3 at 43 Ill. Reg. 585, effective December 6, 2018;  
 49 amended in R19-11 at 43 Ill. Reg. 5995, effective May 2, 2019; amended in R20-3/R20-11 at 44  
 50 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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 52 **SUBPART B: COMPLIANCE WITH THE MANIFEST**  
 53 **SYSTEM AND RECORDKEEPING**  
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55 **Section 723.120 The Manifest System**  
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57 a) **No Acceptance Without a Manifest**  
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- 59 1) **Manifest Requirement.** A transporter may not accept hazardous waste  
 60 from a generator unless the transporter is also provided with a manifest  
 61 form (USEPA Form 8700-22, and if necessary, USEPA Form 8700-22A)  
 62 signed in accordance with the provisions of 35 Ill. Adm. Code 723.123, or  
 63 is provided with an e-Manifest that is obtained, completed, and transmitted  
 64 in accordance with 35 Ill. Adm. Code 722.120(a)(3) and signed with a  
 65 valid and enforceable electronic signature as described in 35 Ill. Adm.  
 66 Code 722.125.  
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- 68 2) **Exports.** For exports of hazardous waste subject to Subpart H of 35 Ill.  
 69 Adm. Code 722, a transporter may not accept hazardous waste without a  
 70 manifest signed by the generator in accordance with this Section, as  
 71 appropriate, and for exports occurring under the terms of a consent issued  
 72 by USEPA on or after December 31, 2016, a movement document that  
 73 includes all information required by 35 Ill. Adm. Code 722.183(d).  
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- 75 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an  
 76 applicability statement that became obsolete for the purposes of the  
 77 Illinois rules on September 6, 2006. This statement maintains structural  
 78 parity with the corresponding federal regulations.  
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- 80 4) **Use of e-Manifest – Legal Equivalence to Paper Forms for Participating**  
 81 **Transporters.** E-Manifests that are obtained, completed, and transmitted in  
 82 accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance  
 83 with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the  
 84 legal equivalent of paper manifest forms bearing handwritten signatures,  
 85 and satisfy for all purposes any requirement in these regulations to obtain,  
 86 complete, sign, carry, provide, give, use, or retain a manifest.

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- 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 263.20(a)(4)(i) through (a)(4)(iv) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a)(4).

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- 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) 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.

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- 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). 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.
  
- 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.
  
- 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) In the case of exports occurring under the terms of a consent issued by USEPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by USEPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 35 Ill. Adm. Code 722.184(d) also accompanies the hazardous waste.



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- 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 or imports occurring under the terms of a consent issued by USEPA, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) or 722.184(d) 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:

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- 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; and
- 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 or imports occurring under the terms of a consent issued by USEPA, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) or 722.184(d) accompanies the hazardous waste at all times.

BOARD NOTE: Intermediate rail transporters are not required to sign the manifest, movement document, 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.

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- 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) For paper manifests only, the transporter must do the following:
    - A) Send a copy of the manifest to the e-Manifest System in accordance with the allowable methods specified in 35 Ill. Adm. Code 724.171(a)(2)(E); and
    - B) For shipments initiated prior to December 31, 2017, when instructed by the exporter to do so, 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) but less than 1,000 kg (2,200 lbs) 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);

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- 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 722.118) 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 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 723.121 Compliance with the Manifest**

- a) Except as provided in subsection (b), the transporter must deliver the entire quantity of hazardous waste which it 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 Hazardous Waste
  - 1) Emergency Condition. If the hazardous waste cannot be delivered in accordance with subsection (a)(1), (a)(2), or (a)(4) because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact

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the generator for further instructions 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 condition of subsection (b)(2)(C) is true and the condition~~conditions~~ of either subsections~~subsections~~ (b)(2)(A) ~~and (b)(2)(C)~~ or ~~subsections (b)(2)(B) is also and (b)(2)(C) are~~ true:
  - A) The hazardous waste is not delivered in accordance with subsection (a)(3) because of an emergency condition.
  - 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.
  - 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

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- 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.
- c) 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:
  - 1) 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).
  - 2) 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).

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(Source: Amended at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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 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 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 R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 22595, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 585, effective December 6, 2018; amended in R19-11 at 43



Ill. Reg. 5995, effective May 2, 2019; amended in R20-3/R20-11 at 44  
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. For exports of hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this Section, as appropriate, and for exports occurring under the terms of a consent issued by USEPA on or after December 31, 2016, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d).

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 263.20(a)(4)(i) through (a)(4)(iv) 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) ~~(a)(4)(C)(i)~~ 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). 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.

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) In the case of exports occurring under the terms of a consent issued by USEPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by USEPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 35 Ill. Adm. Code 722.184(d) 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 or imports occurring under the terms of a consent issued by USEPA, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) or 722.184(d) 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; and

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 or imports occurring under the terms of a consent issued by USEPA, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) or 722.184(d) accompanies the hazardous waste at all times.

BOARD NOTE: Intermediate rail transporters are not required to sign the manifest, movement document, 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) For paper manifests only, the transporter must do the following:

A) Send a copy of the manifest to the e-Manifest System in accordance with the allowable methods specified in 35 Ill. Adm. Code 724.171(a)(2)(E); and

B) For shipments initiated prior to December 31, 2017, when instructed by the exporter to do so, 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) but less than 1,000 kg (2,200 lbs) 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 722.118) 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 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 723.121 Compliance with the Manifest

a) Except as provided in subsection (b), the transporter must deliver the entire quantity of hazardous waste which it 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 Hazardous Waste

1) Emergency Condition. If the hazardous waste cannot be delivered in accordance with subsection (a)(1), (a)(2), or (a)(4) 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 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 condition of subsection (b)(2)(C) is true and the condition ~~conditions~~ of either subsection ~~subsections~~ (b)(2)(A) ~~and (b)(2)(C)~~ or ~~subsections~~ (b)(2)(B) is also ~~and (b)(2)(C) are~~ true:

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

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.

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.

c) 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:

1) 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).

2) 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 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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