

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED 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>Adopted action:</u>
723.110	Amend
723.111	Amend
723.112	Amend

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

5) Effective date of amendments: OCT 14 2011

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

7) Do these amendments contain incorporations by reference?

No. The incorporations by reference for the purposes of all of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, and 739 appear in 35 Ill. Adm. Code 720.111. Amendments to 35 Ill. Adm. Code 720.111 may affect documents incorporated by reference for the purposes of this Part 723.

8) Statement of availability:

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

9) Notice of proposal published in the Illinois Register:

June 24, 2011, 35 Ill. Reg. 9555

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

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

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11) Differences between the proposal and the final version:

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

The differences are limited to minor corrections and stylistic revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

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

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

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

13) Will these amendments replace emergency amendments currently in effect? No.

14) Are there any other amendments pending on this Part? No.

15) Summary and purpose of amendments:

The amendments to Part 723 are a single segment of the docket R11-2/R11-16 rulemaking that also affects 35 Ill. Adm. Code 702, 720, 721, 722, 724, 725, 726, and

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728, each of which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the docket R11-2/R11-16 rulemaking in this Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinions and orders of June 2, 2011 and August 18, 2011 in docket R11-2/R11-16, which opinions and orders are available from the address below.

Specifically, the amendments to Part 723 implement segments of the January 8, 2010 federal amendments to the hazardous waste import and export requirements and the federal technical corrections and clarifications of March 18, 2010. The amendments include a number of non-substantive corrections and clarifications added by the Board.

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

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

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

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

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

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

The full text of the adopted amendments begins on the next page:

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

PART 723
STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS
WASTE

SUBPART A: GENERAL

Section	Scope
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	Scope
723.120	The Manifest System
723.121	Compliance with the Manifest
723.122	Recordkeeping

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section	Scope
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;

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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. _____, effective _____.

SUBPART A: GENERAL

Section 723.110 Scope

- a) These regulations establish standards which apply to persons transporting hazardous waste into, out of or through Illinois if the transportation requires a manifest under 35 Ill. Adm. Code 722.
- b) These regulations do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.
- c) A transporter of hazardous waste must also comply with 35 Ill. Adm. Code 722, "Standards Applicable to Generators of Hazardous Waste," if either of the following occurs:
 - 1) It transports hazardous waste into the United States from abroad; or
 - 2) It mixes hazardous waste of different DOT shipping descriptions by placing them into a single container.
- d) A transporter of hazardous waste subject to the manifesting requirements of 35 Ill. Adm. Code 722 or the waste management standards of 35 Ill. Adm. Code 733 that is being imported from or exported to any of the countries listed in 35 Ill. Adm. Code 722.158(a)(1) for purposes of recovery is subject to this Subpart and to all other relevant requirements of 35 Ill. Adm. Code 722.Subpart H, including, but not limited to, 35 Ill. Adm. Code 722.184 for ~~tracking~~ movement documents.
- e) The regulations in this Part do not apply to transportation during an explosives or munitions emergency response, conducted in accordance with 35 Ill. Adm. Code 724.101(g)(8)(A)(iv) or (g)(8)(D) or 35 Ill. Adm. Code 725.101(c)(11)(A)(iv) or (c)(11)(D), and 35 Ill. Adm. Code 703.121(a)(4) or (c).
- f) 35 Ill. Adm. Code 726.303 identifies how the requirements of this Part apply to military munitions classified as solid waste under 35 Ill. Adm. Code 726.302.

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

Section 723.111 USEPA Identification Number

- a) A transporter must not transport hazardous waste without having received a USEPA ~~an EPA~~-identification number from the Administrator.

- b) A transporter who has not received ~~an EPA~~-a USEPA identification number may obtain one by applying to ~~the Administrator~~-USEPA Region 5 using ~~EPA~~-USEPA Form 8700-12. The transporter must obtain a copy of the form from the Agency, Bureau of Land (217-782-6762), and submit a completed copy of the form to the Bureau of Land, in addition to notification to USEPA Region 5. Upon receiving the request, ~~the Administrator~~-USEPA Region 5 will assign ~~an EPA~~-a USEPA identification number to the transporter.

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

Section 723.112 Transfer Facility Requirements

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less is not subject to regulations under 35 Ill. Adm. Code 702, 703, ~~or 724 through~~, 725, 727, or 728 with respect to the storage of those wastes.

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