

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> :
723.110	Amendment
723.112	Amendment
723.120	Amendment
723.121	Amendment
723.125	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 consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702 through 705, 720 through 722, 724 through 728, 730, 733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are 35 Ill. Adm. Code 722, 723, and 726 through 728. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking 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 722. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

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STATE OF ILLINOIS
Pollution Control Board

Specifically, the amendments to Part 723 incorporate elements of the Generator Improvements Rule and the Hazardous Waste Import-Export Revisions. 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 consolidated docket R17-14/R17-15/R18-11/R18-31. 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 R17-14/R17-15/R18-11/R18-31.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35] does not

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apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, 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 an 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 R17-14/R17-15/R18-11/R18-31 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 R17-14/R17-15/R18-11/R18-31:

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

312/814-6924

POLLUTION CONTROL BOARD

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email: 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: January 2017 and January 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].
35

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 at 42 Ill. Reg. _____, effective
48 _____.

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50 SUBPART A: GENERAL

51
52 **Section 723.110 Scope**

- 53
- 54 a) These regulations establish standards which apply to persons transporting
55 hazardous waste into, out of or through Illinois if the transportation requires a
56 manifest under 35 Ill. Adm. Code 722.
57
 - 58 b) These regulations do not apply to on-site transportation of hazardous waste by
59 generators or by owners or operators of permitted hazardous waste management
60 facilities.
61
 - 62 c) A transporter of hazardous waste must also comply with 35 Ill. Adm. Code 722,
63 "Standards Applicable to Generators of Hazardous Waste," if either of the
64 following occurs:
65
 - 66 1) It transports hazardous waste into the United States from abroad; or
 - 67 2) It mixes hazardous waste of different DOT shipping descriptions by
68 placing them into a single container.
69
 - 70
71 d) A transporter of hazardous waste ~~subject to the manifesting requirements of 35 Ill.~~
72 ~~Adm. Code 722 or the waste management standards of 35 Ill. Adm. Code 733 that~~
73 ~~is being imported from or exported to any other country of the countries listed in~~
74 ~~35 Ill. Adm. Code 722.158(a)(1) for purposes of recovery or disposal is subject to~~
75 ~~this Subpart and to all other relevant requirements of 35 Ill. Adm. Code~~
76 ~~722.Subpart H, including, but not limited to, 35 Ill. Adm. Code 722.183(d) and~~
77 ~~722.184 for movement documents.~~
78
 - 79 e) The regulations in this Part do not apply to transportation during an explosives or
80 munitions emergency response, conducted in accordance with 35 Ill. Adm. Code
81 724.101(g)(8)(A)(iv) or (g)(8)(D) or 35 Ill. Adm. Code 725.101(c)(11)(A)(iv) or
82 (c)(11)(D), and 35 Ill. Adm. Code 703.121(a)(4) or (c).
83
 - 84 f) 35 Ill. Adm. Code 726.303 identifies how the requirements of this Part apply to
85 military munitions classified as solid waste under 35 Ill. Adm. Code 726.302.
86

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

Section 723.112 Transfer Facility Requirements

- a) A transporter ~~that~~ who stores manifested shipments of hazardous waste in containers meeting the independent requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ~~10~~ ten days or less is not subject to regulations under 35 Ill. Adm. Code 702, 703, 724, 725, 727, or 728 with respect to the storage of those wastes.
- b) When consolidating the contents of two or more containers with the same hazardous waste into a new container, or when combining and consolidating two different hazardous wastes that are compatible with each other, the transporter must mark its containers of 119 gallons (450 ℓ) or less capacity with the following information:
 - 1) The words "Hazardous Waste"; and
 - 2) The applicable USEPA hazardous waste numbers in Subparts C and D of 35 Ill. Adm. Code 721, or in compliance with 35 Ill. Adm. Code 722.132(c).

(Source: Amended 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. 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

130 appropriate, and for exports occurring under the terms of a consent issued
 131 by USEPA on or after December 31, 2016, a movement document that
 132 includes all information required by 35 Ill. Adm. Code 722.183(d).
 133

134 A) ~~In the case of exports other than those subject to Subpart H of 35~~
 135 ~~Ill. Adm. Code 722, a transporter may not accept such waste from~~
 136 ~~a primary exporter or other person if the transporter knows that the~~
 137 ~~shipment does not conform to the USEPA Acknowledgement of~~
 138 ~~Consent; and unless, in addition to a manifest signed by the~~
 139 ~~generator in accordance with this Section, the transporter must also~~
 140 ~~be provided with a USEPA Acknowledgement of Consent that,~~
 141 ~~except for shipment by rail, is attached to the manifest (or shipping~~
 142 ~~paper for exports by water (bulk shipment)).~~
 143

144 B) ~~For exports of hazardous waste subject to Subpart H of 35 Ill.~~
 145 ~~Adm. Code 722, a transporter may not accept hazardous waste~~
 146 ~~without a tracking document that includes all information required~~
 147 ~~by 35 Ill. Adm. Code 722.184.~~
 148

149 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an
 150 applicability statement that became obsolete for the purposes of the
 151 Illinois rules on September 6, 2006. This statement maintains structural
 152 parity with the corresponding federal regulations.
 153

154 4) Use of e-Manifest – legal equivalence to paper forms for participating
 155 transporters. E-Manifests that are obtained, completed, and transmitted in
 156 accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance
 157 with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the
 158 legal equivalent of paper manifest forms bearing handwritten signatures,
 159 and satisfy for all purposes any requirement in these regulations to obtain,
 160 complete, sign, carry, provide, give, use, or retain a manifest.
 161

162 A) Any requirement in 35 Ill. Adm. Code 720 through 728 to sign a
 163 manifest or manifest certification by hand, or to obtain a
 164 handwritten signature, is satisfied by signing with or obtaining a
 165 valid and enforceable electronic signature within the meaning of
 166 35 Ill. Adm. Code 722.125.
 167

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

- 216 pursuant to subsection (a)(4)(C)(i) ~~of this Section~~, or obtain and
 217 complete another paper manifest for this purpose. The transporter
 218 must reproduce sufficient copies to provide the transporter and all
 219 subsequent waste handlers with a copy for their files, plus two
 220 additional copies that will be delivered to the designated facility
 221 with the hazardous waste.
 222
- 223 B) On each printed copy, the transporter must include a notation in the
 224 Special Handling and Additional Description space (Item 14) that
 225 the paper manifest is a replacement manifest for a manifest
 226 originated in the e-Manifest System, must include (if not pre-
 227 printed on the replacement manifest) the manifest tracking number
 228 of the e-Manifest that is replaced by the paper manifest, and must
 229 also include a brief explanation why the e-Manifest was not
 230 available for completing the tracking of the shipment
 231 electronically.
 232
- 233 C) A transporter signing a replacement manifest to acknowledge
 234 receipt of the hazardous waste must ensure that each paper copy is
 235 individually signed and that a legible handwritten signature
 236 appears on each copy.
 237
- 238 D) From the point at which the e-Manifest is no longer available for
 239 tracking the waste shipment, the paper replacement manifest
 240 copies must be carried, signed, retained as records, and given to a
 241 subsequent transporter or to the designated facility, following the
 242 instructions, procedures, and requirements that apply to the use of
 243 all other paper manifests.
 244
- 245 7) Special procedures for electronic signature methods undergoing tests. If a
 246 transporter using an e-Manifest signs this manifest electronically using an
 247 electronic signature method that is undergoing pilot or demonstration tests
 248 aimed at demonstrating the practicality or legal dependability of the
 249 signature method, then the transporter must sign the e-Manifest
 250 electronically and also sign with an ink signature the transporter
 251 acknowledgement of receipt of materials on the printed copy of the
 252 manifest that is carried on the vehicle in accordance with subsection
 253 (a)(4)(C)(i) ~~of this Section~~. This printed copy bearing the generator's and
 254 transporter's ink signatures must also be presented by the transporter to the
 255 designated facility to sign in ink to indicate the receipt of the waste
 256 materials or to indicate discrepancies. After the owner or operator of the
 257 designated facility has signed this printed manifest copy with its ink

258 signature, the printed manifest copy must be delivered to the designated
259 facility with the waste materials.

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261 8) Imposition of user fee for e-Manifest use. A transporter that is a user of
262 the e-Manifest System may be assessed a user fee by USEPA for the
263 origination or processing of each e-Manifest. USEPA has stated that it
264 will maintain and update from time-to-time the current schedule of e-
265 Manifest user fees, which must be determined based on current and
266 projected e-Manifest System costs and level of use of the e-Manifest
267 System. USEPA has stated that it will publish the current schedule of e-
268 Manifest user fees as an appendix to 40 CFR 262.

269
270 b) Before transporting the hazardous waste, the transporter must sign and date the
271 manifest acknowledging acceptance of the hazardous waste from the generator.
272 The transporter must return a signed copy to the generator before leaving the
273 generator's property.

274
275 c) The transporter must ensure that the manifest accompanies the hazardous waste.
276 In the case of exports occurring under the terms of a consent issued by USEPA to
277 the exporter on or after December 31, 2016, the transporter must ensure that a
278 movement document that includes all information required by 35 Ill. Adm. Code
279 722.183(d) also accompanies the hazardous waste. In the case of imports
280 occurring under the terms of a consent issued by USEPA to the country of export
281 or the importer on or after December 31, 2016, the transporter must ensure that a
282 movement document that includes all information required by 35 Ill. Adm. Code
283 722.184(d) ~~In the case of exports, the transporter must ensure that a copy of the~~
284 USEPA Acknowledgement of Consent also accompanies the hazardous waste.

285
286 d) A transporter that delivers a hazardous waste to another transporter or to the
287 designated facility must do the following:

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

292
293 2) It must retain one copy of the manifest in accordance with Section
294 723.122; and

295
296 3) It must give the remaining copies of the manifest to the accepting
297 transporter or designated facility.

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

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- 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 2722.184(d), ~~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

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- 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 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), ~~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, 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.

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- 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: Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.
 - 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 (220lbs) ~~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 ~~722.118-722.112~~) 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

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- 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) The transporter must deliver the entire quantity of hazardous waste which 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 hazardous waste.
 - 1) If the hazardous waste cannot be delivered in accordance with subsection (a) of this Section because of an emergency condition other than rejection of the waste by the designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.
 - 2) 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:
 - A) 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

472 remaining copies of the original manifest to the rejecting
 473 designated facility. If the transporter is forwarding the rejected
 474 part of the shipment or a regulated container residue to an alternate
 475 facility or returning it to the generator, the transporter must obtain a
 476 new manifest to accompany the shipment, and the new manifest
 477 must include all of the information required in 35 Ill. Adm. Code
 478 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or
 479 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).
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- 481 B) For a full load rejection that will be taken back by the transporter:
 482 a copy of the original manifest that includes the rejecting facility's
 483 signature and date attesting to the rejection, the description of the
 484 rejection in the discrepancy block of the manifest, and the name,
 485 address, phone number, and USEPA identification number for the
 486 alternate facility or generator to whom the shipment must be
 487 delivered. The transporter must retain a copy of the manifest in
 488 accordance with Section 723.122, and give a copy of the manifest
 489 containing this information to the rejecting designated facility. If
 490 the original manifest is not used, then the transporter must obtain a
 491 new manifest for the shipment and comply with 35 Ill. Adm.
 492 Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or
 493 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).
 494

495 (Source: Amended at 42 Ill. Reg. _____, effective _____)
 496

497 **Section 723.125 Electronic Manifest Signatures**
 498

- 499 a) e-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code
 500 722.125.
 501
 502 b) This subsection (b) corresponds with 40 CFR 263.25(b), a provision that USEPA
 503 has marked "reserved:". This statement maintains structural consistency with the
 504 corresponding federal rule.
 505

506 (Source: Amended at 42 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 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 R17-14/R17-15/R18-12 at 42 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 that is being imported from or exported to any other country for purposes of recovery or disposal 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 722.183(d) and 722.184 for 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.

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

Section 723.112 Transfer Facility Requirements

- a) A transporter that stores manifested shipments of hazardous waste in containers meeting the independent requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of 10 days or less is not subject to regulations under 35 Ill. Adm. Code 702, 703, 724, 725, 727, or 728 with respect to the storage of those wastes.
- b) When consolidating the contents of two or more containers with the same hazardous waste into a new container, or when combining and consolidating two different hazardous wastes that are compatible with

each other, the transporter must mark its containers of 119 gallons (450 l) or less capacity with the following information:

- 1) The words "Hazardous Waste"; and
- 2) The applicable USEPA hazardous waste numbers in Subparts C and D of 35 Ill. Adm. Code 721, or in compliance with 35 Ill. Adm. Code 722.132(c).

(Source: Amended 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. ~~For~~ 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 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), 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) 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.

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 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 2722.184(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;

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 ~~2722.184~~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 (220lbs) 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 42 Ill. Reg. _____, effective _____)

Section 723.121 Compliance with the Manifest

a) The transporter must deliver the entire quantity of hazardous waste which 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 hazardous waste.

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

2) 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:

A) 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).

B) 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 _____)

Section 723.125 Electronic Manifest Signatures

a) e-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.

b) This subsection (b) corresponds with 40 CFR 263.25(b), a provision that USEPA has marked "reserved". This statement maintains structural consistency with the corresponding federal rule.

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

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