

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: RCRA Permit Program
- 2) Code Citation: 35 Ill. Adm. Code 703
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
703.123	Amendment
703.220	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 703 are a single segment of consolidated docket R20-3/R20-11 rulemaking that also affects 35 Ill. Adm. Code 702, 720 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 703 incorporate segments of USEPA's Hazardous Waste Pharmaceuticals Rule and Universal Waste Aerosol Cans Rule into the Illinois hazardous waste regulations. The amendments include needed corrections in the rule, including corrections 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

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this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? 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 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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100 W. Randolph, 11-500
Chicago, IL 60601

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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

- 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:

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2 SUBTITLE G: WASTE DISPOSAL
3 CHAPTER I: POLLUTION CONTROL BOARD
4 SUBCHAPTER b: PERMITS

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7 RCRA PERMIT PROGRAM

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22 703.122 Specific Inclusions in Permit Program
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 703.352 Information That Must Be Kept at the Facility
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703.APPENDIX A Classification of Permit Modifications

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 R82-19 at 7 Ill. Reg. 14289, effective October 12, 1983; amended in
 R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899,
 effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986;
 amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill.
 Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective
 December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended
 in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg.
 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January
 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16
 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477,
 effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990;
 amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill.
 Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September
 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at
 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective
 November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended
 in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316,
 effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995;
 amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-
 3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg.
 7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective

173 September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19,
 174 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24
 175 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective
 176 July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002;
 177 amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill.
 178 Reg. 12683, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5966, effective April 13,
 179 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2845, effective February 23, 2006;
 180 amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 487, effective December 20, 2006; amended
 181 in R07-5/R07-14 at 32 Ill. Reg. 11672, effective July 14, 2008; amended in R09-16/R10-4 at 34
 182 Ill. Reg. 18505, effective November 12, 2010; amended in R13-15 at 37 Ill. Reg. 17659,
 183 effective October 24, 2013; amended in R16-7 at 40 Ill. Reg. 11271, effective August 9, 2016;
 184 amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 20993, effective November 19, 2018;
 185 amended in R19-11 at 43 Ill. Reg. 5777, effective May 2, 2019; amended in R20-3/R20-11 at 44
 186 Ill. Reg. _____, effective _____.

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 188 **SUBPART B: PROHIBITIONS**

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 190 **Section 703.123 Specific Exclusions and Exemptions from Permit Program**

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 192 The following persons are among those that are not required to obtain a RCRA permit:

- 193
 194 a) A generator that accumulates hazardous waste on site in compliance with all of
 195 the conditions for exemption provided in 35 Ill. Adm. Code 722.114 through
 196 722.117;
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 198 b) A farmer that disposes of hazardous waste pesticides from the farmer's own use,
 199 as provided in 35 Ill. Adm. Code 722.170;
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 201 c) A person that owns or operates a facility solely for the treatment, storage, or
 202 disposal of hazardous waste excluded from regulations pursuant to this Part by 35
 203 Ill. Adm. Code 721.104 or 722.114 (VSQG exemption);
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 205 d) An owner or operator of a totally enclosed treatment facility, as defined in 35 Ill.
 206 Adm. Code 720.110;
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 208 e) An owner or operator of an elementary neutralization unit or wastewater
 209 treatment unit, as defined in 35 Ill. Adm. Code 720.110;
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 211 f) A transporter that stores manifested shipments of hazardous waste in containers
 212 that meet the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a
 213 period of ten days or less;
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 215 g) A person that adds absorbent material to waste in a container (as defined in 35 Ill.

- 216 Adm. Code 720.110) or a person that adds waste to absorbent material in a
 217 container, provided that these actions occur at the time waste is first placed in the
 218 container; and 35 Ill. Adm. Code 724.117(b), 724.271, and 724.272 are complied
 219 with; and
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 221 h) A universal waste handler or universal waste transporter (as defined in 35 Ill.
 222 Adm. Code 720.110) that manages the wastes listed in subsections (h)(1) through
 223 (h)(5). Such a handler or transporter is subject to regulation pursuant to 35 Ill.
 224 Adm. Code 733.
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 226 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
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 228 2) Pesticides, as described in 35 Ill. Adm. Code 733.103;
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 230 3) Mercury-containing equipment, as described in 35 Ill. Adm. Code
 231 733.104; ~~and~~
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 233 4) Lamps, as described in 35 Ill. Adm. Code 733.105; and;
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 235 5) Aerosol cans, as described in 35 Ill. Adm. Code 733.6.
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 237 i) This subsection (i) corresponds with 40 CFR 270.1(c)(2)(ix), which applies only
 238 to a facility outside Illinois. This statement maintains structural consistency with
 239 the corresponding USEPA rule.
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 241 j) Reverse Distributors Accumulating Potentially Creditable Hazardous Waste
 242 Pharmaceuticals and Evaluated Hazardous Waste Pharmaceuticals, as defined in
 243 Section 726.600. Reverse distributors are subject to regulation under Subpart P of
 244 35 Ill. Adm. Code 726 for the accumulation of potentially creditable hazardous
 245 waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.
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247 BOARD NOTE: Derived from 40 CFR 270.1(c)(2)-(2017).

248
 249 (Source: Amended at 44 Ill. Reg. _____, effective _____)
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251 SUBPART E: SPECIAL FORMS OF PERMITS

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 253 **Section 703.220 Emergency Permits**
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- 255 a) Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705,
 256 in the event that the Agency finds an imminent and substantial endangerment to
 257 human health or the environment, the Agency may issue a temporary emergency
 258 permit, as follows:

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- 1) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or
 - 2) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.
- b) This emergency permit must comply with all of the following requirements:
- 1) The emergency permit may~~May~~ be oral or written. If oral, it must be followed in five days by a written emergency permit.
 - 2) The emergency permit must~~Shall~~ not exceed 90 days in duration.
 - 3) The emergency permit must~~Shall~~ clearly specify the hazardous wastes to be received and the manner and location of their treatment, storage, or disposal.
 - 4) The emergency permit may~~May~~ be terminated by the Agency at any time without process if it determines that termination is appropriate to adequately protect human health and the environment.
 - 5) The emergency permit must~~Shall~~ be accompanied by a public notice published pursuant to 35 Ill. Adm. Code 705.162 including the following:
 - A) The name~~Name~~ and address of the office granting the emergency authorization;
 - B) The name~~Name~~ and location of the permitted HWM facility;
 - C) A brief description of the wastes involved;
 - D) A brief description of the action authorized and reasons for authorizing it; and
 - E) The duration~~Duration~~ of the emergency permit.
 - 6) The emergency permit must~~Shall~~ incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this Part and 35 Ill. Adm. Code 724.
 - 7) An emergency permit~~Emergency permits~~ that would authorize actions not in compliance with Board rules, other than procedural requirements,

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require a variance or provisional variance pursuant to Title IX of the
Environmental Protection Act [415 ILCS 5/Title IX].

BOARD NOTE: Derived from 40 CFR 270.61-(2005).

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

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 703
RCRA PERMIT PROGRAM

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703.APPENDIX A Classification of Permit Modifications

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 R82-19 at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12683, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5966, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2845, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 487, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11672, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18505, effective November 12, 2010; amended in R13-15 at 37 Ill. Reg. 17659, effective October 24, 2013; amended in R16-7 at 40 Ill. Reg. 11271, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 20993, effective November 19, 2018; amended in R19-11 at 43 Ill. Reg. 5777, effective May 2, 2019; amended in R20-3/R20-11 at 44 Ill. Reg. _____, effective _____.

SUBPART B: PROHIBITIONS

Section 703.123 Specific Exclusions and Exemptions from Permit Program

The following persons are among those that are not required to obtain a RCRA permit:

- a) A generator that accumulates hazardous waste on site in compliance with all of the conditions for exemption provided in 35 Ill. Adm. Code 722.114 through 722.117;
- b) A farmer that disposes of hazardous waste pesticides from the farmer's own use, as provided in 35 Ill. Adm. Code 722.170;
- c) A person that owns or operates a facility solely for the treatment, storage, or disposal of hazardous waste excluded from regulations pursuant to this Part by 35 Ill. Adm. Code 721.104 or 722.114 (VSQG exemption);
- d) An owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- e) An owner or operator of an elementary neutralization unit or wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110;
- f) A transporter that stores manifested shipments of hazardous waste in containers that meet the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
- g) A person that adds absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or a person that adds waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 35 Ill. Adm. Code 724.117(b), 724.271, and 724.272 are complied with; and
- h) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that manages the wastes listed in subsections (h) (1) through (h) (5). Such a handler or transporter is subject to regulation pursuant to 35 Ill. Adm. Code 733.
 - 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103;
- 3) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and
- 4) Lamps, as described in 35 Ill. Adm. Code 733.105; and
- 5) Aerosol cans, as described in 35 Ill. Adm. Code 733.6.
- i) This subsection (i) corresponds with 40 CFR 270.1(c)(2)(ix), which applies only to a facility outside Illinois. This statement maintains structural consistency with the corresponding USEPA rule.

j) Reverse Distributors Accumulating Potentially Creditable Hazardous Waste Pharmaceuticals and Evaluated Hazardous Waste Pharmaceuticals, as defined in Section 726.600. Reverse distributors are subject to regulation under Subpart P of 35 Ill. Adm. Code 726 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) ~~-(2017)~~.

(Source: Amended at 44 Ill. Reg. ~~—~~, effective)

SUBPART E: SPECIAL FORMS OF PERMITS

Section 703.220 Emergency Permits

a) Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, in the event that the Agency finds an imminent and substantial endangerment to human health or the environment, the Agency may issue a temporary emergency permit, as follows:

- 1) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or
- 2) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

b) This emergency permit must comply with all of the following requirements:

- 1) The emergency permit may ~~May~~ be oral or written. If oral, it must be followed in five days by a written emergency permit.
- 2) The emergency permit must ~~shall~~ not exceed 90 days in duration.
- 3) The emergency permit must ~~shall~~ clearly specify the hazardous wastes to be received and the manner and location of their treatment, storage, or disposal.
- 4) The emergency permit may ~~May~~ be terminated by the Agency at any time without process if it determines that termination is appropriate to adequately protect human health and the environment.
- 5) The emergency permit must ~~shall~~ be accompanied by a public notice published pursuant to 35 Ill. Adm. Code 705.162 including the following:
 - A) The name ~~Name~~ and address of the office granting the emergency authorization;
 - B) The name ~~Name~~ and location of the permitted HWM facility;
 - C) A brief description of the wastes involved;

D) A brief description of the action authorized and reasons for authorizing it; and

E) The duration ~~Duration~~ of the emergency permit.

6) The emergency permit must ~~shall~~ incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this Part and 35 Ill. Adm. Code 724.

7) An emergency permit ~~Emergency permits~~ that would authorize actions not in compliance with Board rules, other than procedural requirements, require a variance or provisional variance pursuant to Title IX of the Environmental Protection Act [415 ILCS 5/Title IX].

BOARD NOTE: Derived from 40 CFR ~~270.61-(2005)-270.61.~~

(Source: Amended at 44 Ill. Reg. ~~---~~, effective
~~_____~~)

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

~~JCAR350703-2009368r01~~

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