

6 NYCRR PART 372 EXPRESS TERMS

Subdivision 372.1(a) through paragraph 372.1(e)(6) remain unchanged.

Paragraphs 372.1(e)(7) and (8) are amended to read as follows:

(7) [Hazardous wastes which are exempt from certain regulation.

(i) A hazardous waste, which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment manufacturing unit, is not subject to regulation under this Part until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage of transportation of product or raw materials.] Reserved.

(8) Exemption for service stations. Used engine lubricating oil retention facilities accepting [waste] used oil[pursuant to] in compliance with ECL 23-2307 are exempt from this Part for that oil.

Paragraph 372.1(e)(9) remains unchanged.

New paragraph 372.1(e)(10) is adopted to read as follows:

(10) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of subdivision 372.2(e) of this section are not subject to (for purposes of this paragraph, the terms ‘laboratory’ and ‘eligible academic entity’ shall have the meaning as defined in paragraph 372.2(e)(1) this Part):

(i) The requirements of paragraphs 372.2(a)(2) or 372.2(a)(8) of this Part, for large quantity generators and small quantity generators, except as provided in section 372.2(e) of this Part, and

(ii) The conditions of paragraph 371.1(f)(2) of this Title, for conditionally exempt small quantity generators, except as provided in section 372.2(e) of this Part.

Subdivision 372.1(f) through subparagraph 372.2(a)(2)(iii) remain unchanged.

372.2(a)(2)(iv) is amended to read as follows:

(iv) if the waste is determined to be hazardous, the generator must refer to Parts 370 through 374 and 376 of this Title, for possible exclusions or restrictions pertaining to

management of the specific waste. Hazardous waste annual reporting requirements are set forth in paragraph 372.2(c)(2) of this Part. Hazardous waste annual reports must also be filed by facilities subject to ECL Section 72-0402.

Subparagraph 372.2(a)(3)(i) is amended to read as follows:

(3) EPA identification numbers.

(i) A generator must not treat, store, dispose of, transport or offer for transportation, hazardous waste without having received an EPA identification number as defined in section 370.2(b) of this Title. (To obtain an EPA identification number, use the Notification of Regulated Waste Activity form (EPA Form 8700-12), available at <http://www.epa.gov>.)

Subparagraph 372.2(a)(3)(ii) through paragraph 372.2(a)(8) introductory language remains unchanged.

Subparagraphs 372.2(a)(8)(i) and 372.2(a)(8)(ii) are amended to read as follows:

(i) ('a') A generator may accumulate [up to] as much as 55 gallons of non-acute hazardous waste, or as much as either one quart of liquid [acutely] acute hazardous waste listed in [section] subdivision 371.4(b)[, (c) and (d)(5)] or paragraph 371.4(d)(5) of this Title, one quart of containerized gas acute hazardous waste listed in subdivision 371.4(b) or paragraph 371.4(d)(5) of this Title, or one kg (2.2 lbs) of solid acute hazardous waste listed in subdivision 371.4(b) or paragraph 371.4(d)(5) of this Title, in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with [subparagraph] subparagraphs (ii) or (iii) of this paragraph provided the generator:

(1') complies with section 373-3.9(b)-(d) of this Title; and

(2') marks the containers with the words "[hazardous waste]Hazardous Waste" and with other words that identify the contents of the containers.

(b) A generator who accumulates[:] either non-acute hazardous waste, or acute hazardous waste listed in section 371.4(b)[, (c) and (d)(5)] or paragraph 371.4(d)(5) of this Title, in excess of the amounts listed in clause ('a') of this subparagraph at or near any point of generation must, with respect to that amount of excess waste, [must] comply within three consecutive calendar days[,] with subparagraph (ii) of this paragraph or other applicable provisions of this Title. During the three-consecutive-calendar-day period, the generator must continue to comply with [subparagraph (i)] clause (i)(‘a’)(‘1’) and clause (i)(‘a’)(‘2’) of this paragraph. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(ii) Except as provided in subparagraphs (iii), (iv), and (v) of this paragraph, a generator may accumulate hazardous waste [onsite] on-site of generation for a period of 90 days or less under the provisions of section 373-1.1(d)(1)(iii), (iv), (xix) and (xx) of this Title. The date upon which each period of accumulation begins must be clearly marked and visible for inspection on all containers[, tanks, or storage areas].

Subparagraph 372.2(a)(8)(ii) Note through clause 372.2(a)(8)(iii)(c) remain unchanged.

Clause 372.2(a)(8)(iii)(d) is amended to read as follows:

(d) the generator complies with the requirements of sections 373-1.1(d)(1)(iii)(c)(2) - (3), 373-3.3, and [the requirements of subparagraph 376.1(g)(1)(v)] all applicable requirements of Part 376 of this Title; and

Clause 372.2(a)(8)(iii)(e) through subparagraph 372.2(a)(8)(iv) remain unchanged.

Subparagraph 372.2(a)(8)(v) is amended to read as follows:

(v) A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6,000 kilograms or accumulates hazardous waste for more than 180 days (or for more than 270 days if they must transport their waste, or offer their waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of Part 373 of this Title unless the generator has been granted an extension to [of these time limits] the 180-day (or 270-day if applicable) period. [An] Such extension may be granted by the department if hazardous wastes must remain on-site for longer [periods] than 180-days (or 270-day if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the department on a case-by-case basis.

Subparagraph 372.2(a)(8)(vi) introductory language through subclause 372.2(a)(8)(vi)(d)(4) remain unchanged.

Subclause 372.2(a)(8)(vi)(d)(5) is amended to read as follows:

(5) The generator complies with the requirements for owners or operators in sections 373-3.3 and 373-3.4, 373-3.2(g), and [376.1(g)(1)(v)] with all applicable requirements of Part 376 of this Title.

Subparagraph 372.2(a)(8)(vii) through subparagraph 372.2(b)(3)(iii) remain unchanged.

New subparagraph 372.2(b)(3)(iv) is adopted to read as follows:

(iv) for rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of subparagraph 373-2.5(b)(1)(v) or 373-3.5(b)(1)(v) of this Title), the generator must:

(‘a’) Sign either:

(‘1’) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

(‘2’) Item 18c of the original manifest if the original manifest is used for the returned shipment;

(‘b’) Provide the transporter a copy of the manifest;

(‘c’) Within 10 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator and send one copy of the manifest form to the generator State and send one copy of the manifest form to the destination state (if different from the generator State), making legible photocopies as necessary. Send the Department copy to: New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-7252. Generators do not need to distribute manifest copies to states other than New York if those states do not require such a copy be submitted to them; and

(‘d’) Retain at the generator’s site a copy of each manifest for at least three years from the date of delivery.

Paragraph 372.2(b)(4) through paragraph 372.2(c)(2) remain unchanged.

Paragraph 372.2(c)(3) is amended to read as follows:

(3) Exception reporting.

(i) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date [of shipment, must immediately] the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated [disposal] facility to determine the status of the [shipment] hazardous waste. [If, within 45 days of the date of shipment the generator has not received a signed copy of the manifest, an exception report must be submitted to the department and, in the case of interstate shipments, submitted to the state in which the shipment was to be received, and any states in which the shipment may have been delivered. In the case of states which do not have EPA-approved hazardous waste programs, notification must be sent to EPA]. The generator must submit an exception report to the department if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated

facility within 45 days of the date the waste was accepted by the initial transporter and, in the case of interstate shipments, submitted to the state in which the shipment was to be received, and any states in which the shipment may have been delivered. In the case of states which do not have EPA-approved hazardous waste programs, notification must be sent to EPA. The exception report must include:

[(i)] (a) a legible copy of the manifest for which the generator does not have confirmation of delivery; and

[(ii)] (b) a cover letter, signed by the generator or the generator's authorized representative, explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(ii) for rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of clauses 373-2.5(b)(1)(v)(a) through (f) of this Title or 373-3.5(b)(1)(v)(a) through (f) of this Title), the generator must comply with the requirements of subparagraph (i) of this paragraph for the shipment forwarding the material from the designated facility to the alternate facility instead of the shipment from the generator to the designated facility. For the purposes of subparagraph (i) of this paragraph for a shipment forwarding such waste to an alternate facility by a designated facility:

(a) The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility; and

(b) The 35/45-day time frames begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

Paragraph 372.2(c)(4) remains unchanged.

Subdivision 372.2(d) is repealed and reserved.

New subdivision 372.2(e) is adopted to read as follows:

(e) Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities

(1) Definitions for this subdivision

The following definitions apply to this subdivision:

(i) 'Central accumulation area' means an on-site hazardous waste accumulation area

subject to: paragraph 372.2(a)(8)(ii) of this section; clause 373-1.1(d)(1)(iii)(‘e’) or 373-1.1(d)(1)(iv)(‘h’) of this Title (large quantity generators); or subparagraphs 372.2(a)(8)(iii) through 372.2(a)(8)(v) of this section (small quantity generators). A central accumulation area at an eligible academic entity that chooses to be subject to this subdivision must also comply with paragraph 372.2(e)(12) of this section when accumulating unwanted material and/or hazardous waste.

(ii) ‘College/University’ means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

(iii) ‘Eligible academic entity’ means a college or university, or non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

(iv) ‘Formal written affiliation agreement’ for a non-profit research institute means a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives, as defined in subdivision 370.2(b) of this Title, from each institution. A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. A ‘formal written affiliation agreement’ for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

(v) ‘Laboratory’ means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

(vi) ‘Laboratory clean-out’ means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by paragraph 372.2(e)(9) of this subdivision, does not qualify as a laboratory clean-out.

(vii) ‘Laboratory worker’ means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows,

interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

(viii) ‘Non-profit research institute’ means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

(ix) ‘Reactive acutely hazardous unwanted material’ means an unwanted material that is one of the acutely hazardous commercial chemical products listed in subdivision 371.4(d) of this Title for reactivity.

(x) ‘Teaching hospital’ means a hospital that trains students to become physicians, nurses or other health or laboratory personnel.

(xi) ‘Trained professional’ means a person who has completed the applicable training requirements of subdivision 373-3.2(g) of this Title for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with subclause 372.2(a)(8)(iii)(‘e’)(‘3’) of this section for small quantity generators and conditionally exempt small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

(xii) ‘Unwanted material’ means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to subdivision 371.1(c), or a hazardous waste pursuant to subdivision 371.1(d) of this Title. If an eligible academic entity elects to use another equally effective term in lieu of “unwanted material”, as allowed by clause 372.2(e)(7)(i)(‘a’)(‘1’) of this subdivision, the equally effective term has the same meaning and is subject to the same requirements as “unwanted material” under this subdivision.

(xiii) ‘Working container’ means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

(2) Applicability of this subdivision.

(i) Large quantity generators and small quantity generators. This subdivision provides alternative requirements to the requirements in paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)(‘a’) of this section for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subdivision, provided that they complete the notification requirements of paragraph

372.2(e)(4) of this subdivision.

(ii) Conditionally exempt small quantity generators. This subdivision provides alternative requirements to the conditional exemption in paragraph 371.1(f)(2) of this Title, for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subdivision, provided that they complete the notification requirements of paragraph 372.2(e)(4) of this subdivision.

(3) Electing options.

(i) Large quantity generators and small quantity generators: Eligible academic entities may elect to comply with this subdivision with respect to their laboratories, as an alternative to complying with the requirements of paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)('a') of this section.

(ii) Conditionally exempt small quantity generators. Eligible academic entities may elect to comply with this subdivision with respect to their laboratories, as an alternative to complying with the conditional exemption of paragraph 371.1(f)(2) of this Title.

(4) How an eligible academic entity elects to be subject to the requirements of this subdivision.

(i) An eligible academic entity must notify the EPA Region 2 Administrator and the Department in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700-12), that it is electing to be subject to the requirements of this subdivision for all the laboratories owned by the eligible academic entity under the same EPA Identification Number. An eligible academic entity that is a conditionally exempt small quantity generator and does not have an EPA Identification Number must notify that it is electing to be subject to the requirements of this subdivision for all the laboratories owned by the eligible academic entity that are on-site, as defined by section 370.2 of this Title. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA Identification Number (or site, for conditionally exempt small quantity generators) that is electing to be subject to the requirements of this subdivision, and must submit the Site Identification Form before it begins operating under this subdivision.

(ii) When submitting the Site Identification Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

('a') Reason for Submittal.

('b') Site EPA Identification Number (except for conditionally exempt small quantity generators).

('c') Site Name.

(‘d’) Site Location Information.

(‘e’) Site Land Type.

(‘f’) North American Industry Classification System (NAICS) Code(s) for the Site.

(‘g’) Site Mailing Address.

(‘h’) Site Contact Person.

(‘i’) Operator and Legal Owner of the Site.

(‘j’) Type of Regulated Waste Activity.

(‘k’) Certification.

(iii) An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as its laboratories are subject to this subdivision.

(iv) A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this subdivision.

(v) A non-profit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the non-profit research institute for as long as its laboratories are subject to this subdivision.

(5) How an eligible academic entity indicates it will withdraw from the requirements of this subdivision.

(i) An eligible academic entity must notify the EPA Region 2 Administrator and the Department in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700-12), that it is electing to no longer be subject to the requirements of this subdivision for all the laboratories owned by the eligible academic entity under the same EPA Identification Number and that it will comply with the requirements of paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)(‘a’) of this section for small quantity generators and large quantity generators. An eligible academic entity that is a conditionally exempt small quantity generator and does not have an EPA Identification Number must notify that it is withdrawing from the requirements of this subdivision for all the laboratories owned by the eligible academic entity that are on-site and that it will comply with the conditional exemption in paragraph 371.1(f)(2) of this Title. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA Identification Number (or site, for conditionally exempt small quantity generators) that is

withdrawing from the requirements of this subdivision and must submit the Site Identification Form before it begins operating under the requirements paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)(‘a’) of this section for small quantity generators and large quantity generators, or paragraph 371.1(f)(2) of this Title for conditionally exempt small quantity generators.

(ii) When submitting the Site Identification Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

(‘a’) Reason for Submittal.

(‘b’) Site EPA Identification Number (except for conditionally exempt small quantity generators).

(‘c’) Site Name.

(‘d’) Site Location Information.

(‘e’) Site Land Type.

(‘f’) North American Industry Classification System (NAICS) Code(s) for the Site.

(‘g’) Site Mailing Address.

(‘h’) Site Contact Person.

(‘i’) Operator and Legal Owner of the Site.

(‘j’) Type of Regulated Waste Activity.

(‘k’) Certification.

(iii) An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

(6) Summary of the requirements of this subdivision.

An eligible academic entity that elects to be subject to this subdivision is not required to have interim status or a Part 373 permit for the accumulation of unwanted material and hazardous waste in its laboratories, provided the laboratories comply with the provisions of this subdivision and the eligible academic entity has and implements a Laboratory Management Plan (LMP) in accordance with paragraph 372.2(e)(15) that describes how the laboratories owned by the eligible academic entity will comply with the requirements of this subdivision.

(7) Labeling and management standards for containers of unwanted material in the laboratory.

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this subdivision.

(i) Labeling: Label unwanted material as follows:

(‘a’) The following information must be affixed or attached to the container:

(‘1’) The words “unwanted material” or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan, and

(‘2’) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:

(‘i’) The name of the chemical(s),

(‘ii’) The type or class of chemical, such as organic solvents or halogenated organic solvents.

(‘b’) The following information may be affixed or attached to the container, but must at a minimum be associated with the container:

(‘1’) The date that the unwanted material first began accumulating in the container, and

(‘2’) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to paragraph 372.2(a)(2) of this section. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to:

(‘i’) The name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction,

(‘ii’) Whether the unwanted material has been used or is unused,

(‘iii’) A description of the manner in which the chemical was produced or processed, if applicable.

(ii) Management of Containers in the Laboratory: An eligible academic entity must

properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

(‘a’) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired, and

(‘b’) Containers are compatible with their contents to avoid reactions between the contents and the container; and are made of, or lined with, material that is compatible with the unwanted material so that the container’s integrity is not impaired, and

(‘c’) Containers must be kept closed at all times, except:

(‘1’) When adding, removing or bulking unwanted material, or

(‘2’) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed, or

(‘3’) When venting of a container is necessary:

(‘i’) For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs, or

(‘ii’) To prevent dangerous situations, such as build-up of extreme pressure.

(8) Training.

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, and notify those individuals of the availability of the Laboratory Management Plan, as follows:

(i) Training for laboratory workers and students must be commensurate with their duties so they understand the requirements in this subdivision and can implement them.

(ii) An eligible academic entity can provide training for laboratory workers and students in a variety of ways, including, but not limited to:

(‘a’) Instruction by the professor or laboratory manager before or during an experiment;

(‘b’) Formal classroom training;

(‘c’) Electronic/written training;

(‘d’) On-the-job training; or

(‘e’) Written or oral exams.

(iii) An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in paragraph 373-3.2(g)(5) of this Title, demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:

(‘a’) Sign-in/attendance sheet(s) for training session(s);

(‘b’) Syllabus for training session;

(‘c’) Certificate of training completion; or

(‘d’) Test results.

(iv) A trained professional must:

(‘a’) Accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory, and

(‘b’) Make the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, for unwanted material.

(9) Removing containers of unwanted material from the laboratory.

(i) Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:

(‘a’) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed twelve months; or

(‘b’) Remove containers of unwanted material from each laboratory within twelve months of each container's accumulation start date.

(ii) The eligible academic entity must specify in Part I of its Laboratory Management Plan whether it will comply with clause (i)(‘a’) or (i)(‘b’) of this paragraph for the regular removal of

unwanted material from its laboratories.

(iii) The eligible academic entity must specify in Part II of its Laboratory Management Plan how it will comply with clause (i)(‘a’) or (i)(‘b’) of this paragraph and develop a schedule for regular removals of unwanted material from its laboratories.

(iv) Removing containers of unwanted material when volumes are exceeded.

(‘a’) If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of 55 gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):

(‘1’) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 55 gallons was exceeded; and

(‘2’) Are removed from the laboratory within ten calendar days of the date that 55 gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.

(‘b’) If a laboratory accumulates more than one quart of liquid reactive acutely hazardous unwanted material, more than one quart of containerized gas reactive acutely hazardous unwanted material, or more than one kg (2.2 pounds) of solid reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

(‘1’) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that one quart or one kg is exceeded; and

(‘2’) Are removed from the laboratory within ten calendar days of the date that one quart or one kg was exceeded, or at the next regularly scheduled removal, whichever comes first.

(10) Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.

(i) Large quantity generators and small quantity generators- an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, for unwanted material in any of the following areas:

(‘a’) In the laboratory before the unwanted material is removed from the laboratory, in accordance with paragraph 372.2(e)(11) of this subdivision;

(‘b’) Within four calendar days of arriving at the on-site central accumulation area, in accordance with paragraph 372.2(e)(12) of this subdivision; and

(‘c’) Within four calendar days of arriving at an on-site interim status facility or an on-site permitted treatment, storage or disposal facility, in accordance with paragraph 372.2(e)(13) of this subdivision.

(ii) Conditionally exempt small quantity generators-an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with paragraph 372.2(e)(11) of this subdivision.

(11) Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory. If an eligible academic entity makes the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, for unwanted material in the laboratory, it must comply with the following:

(i) A trained professional must make the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, before the unwanted material is removed from the laboratory.

(ii) When an unwanted material is a hazardous waste, the eligible academic entity must:

(‘a’) Write the words “Hazardous Waste” on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory; and

(‘b’) Write the appropriate hazardous waste code(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste is transported off-site.

(‘c’) Count the hazardous waste toward the eligible academic entity’s generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title, in the calendar month that the hazardous waste determination was made.

(iii) A trained professional must accompany all hazardous waste that is transferred from the laboratory(ies) to an on-site central accumulation area, or on-site interim status facility or an on-site permitted treatment, storage or disposal facility.

(iv) When hazardous waste is removed from the laboratory:

(‘a’) Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area, or on-site interim

status facility or an on-site permitted treatment, storage or disposal facility, or transported off-site.

(‘b’) Conditionally exempt small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in paragraph 371.1(f)(6) of this Title, for acute hazardous waste, or paragraph 371.1(f)(7) of this Title for hazardous waste.

(v) An unwanted material that is a hazardous waste is subject to all applicable hazardous waste regulations when it is removed from the laboratory.

(12) Making the hazardous waste determination at an on-site central accumulation area. When an eligible academic entity makes the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this section, for unwanted material at an on-site central accumulation area, it must comply with the following:

(i) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area.

(ii) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area.

(iii) The unwanted material becomes subject to the generator accumulation regulations of paragraph 372.2(a)(8) of this section for large quantity generators or subparagraphs 372.2(a)(8)(iii) through (v) of this section, for small quantity generators as soon as it arrives in the central accumulation area, except for the “Hazardous Waste” labeling requirements of paragraph 372.2(a)(8) of this section.

(iv) A trained professional must determine, pursuant to paragraph 372.2(a)(2) of this section, if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials’ arrival at the on-site central accumulation area.

(v) Upon determining that the unwanted material is a hazardous waste, the eligible academic entity must:

(‘a’) Write the words “Hazardous Waste” on the container label that is affixed or attached to the container, and

(‘b’) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site, and

(‘c’) Count the hazardous waste toward the eligible academic entity’s generator status , pursuant to paragraphs 371.1(f)(3) and (4) of this Title, in the calendar month that the

hazardous waste determination was made, and

(‘d’) Manage the hazardous waste according to all applicable hazardous waste regulations.

(13) Making the hazardous waste determination at an on-site interim status facility or an on-site permitted treatment, storage or disposal facility. When an eligible academic entity makes the hazardous waste determination, pursuant to paragraph 372.2(a)(2) of this subdivision, for unwanted material at an on-site interim status facility or an on-site permitted treat, storage or disposal facility, it must comply with the following:

(i) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site interim status facility or an on-site permitted treatment, storage or disposal facility.

(ii) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site interim status facility or an on-site permitted treatment, storage or disposal facility.

(iii) The unwanted material becomes subject to the terms of the eligible academic entity’s hazardous waste permit or interim status as soon as it arrives in the on-site treatment, storage or disposal facility.

(iv) A trained professional must determine, pursuant to paragraph 372.2(a)(2) of this section, if the unwanted material is a hazardous waste within four calendar days of the unwanted materials’ arrival at an on-site interim status facility or an on-site permitted treatment, storage or disposal facility.

(v) Upon determining that the unwanted material is a hazardous waste, the eligible academic entity must:

(‘a’) Write the words “Hazardous Waste” on the container label that is affixed or attached to the container, and

(‘b’) Write the appropriate hazardous code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed on-site or transported off-site, and

(‘c’) Count the hazardous waste toward the eligible academic entity’s generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title, in the calendar month that the hazardous waste determination was made, and

(‘d’) Manage the hazardous waste according to all applicable hazardous waste regulations.

(14) Laboratory clean-outs.

(i) One time per 12-month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this subdivision, except that:

(‘a’) If the volume of unwanted material in the laboratory exceeds 55 gallons (or one quart of liquid reactive acutely hazardous unwanted material, one quart of containerized gas reactive acutely hazardous unwanted material, or one kg of solid reactive acutely hazardous unwanted material), the eligible academic entity must remove all unwanted materials from the laboratory within 30 calendar days from the start of the laboratory clean-out; and

(‘b’) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in section 371.4 or exhibiting one or more characteristics of section 371.3 of this Title) generated solely during the laboratory clean-out toward its hazardous waste generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title. However, an unwanted material that was accumulated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title, if it is determined to be hazardous waste; and

(‘c’) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator status under clause (‘b’) of this subparagraph, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of hazardous waste (i.e., the conditionally exempt small quantity generator limits of subdivision 371.1(f) of this Title), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off-site; and

(‘d’) An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and

(ii) For all other laboratory clean-outs conducted during the same 12-month period, an eligible academic entity is subject to all the applicable requirements of this subdivision, including, but not limited to:

(‘a’) The requirement to remove all unwanted materials from the laboratory within

10 calendar days of exceeding 55 gallons (or one quart of liquid reactive acutely hazardous unwanted material, one quart of containerized gas reactive acutely hazardous unwanted material, or one kg of solid reactive acutely hazardous unwanted material), as required by paragraph 372.2(e)(9) of this subdivision; and

(‘b’) The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator status, pursuant to paragraphs 371.1(f)(3) and (4) of this Title.

(15) Laboratory management plan.

An eligible academic entity must develop and retain a written Laboratory Management Plan, or revise an existing written plan. The Laboratory Management Plan is a site-specific document that describes how the eligible academic entity will manage unwanted materials in compliance with this subdivision. An eligible academic entity may write one Laboratory Management Plan for all the laboratories owned by the eligible academic entity that have opted into this subdivision, even if the laboratories are located at sites with different EPA Identification Numbers. The Laboratory Management Plan must contain two parts with a total of nine elements identified in subparagraphs (i) and (ii) of this paragraph. In Part I of its Laboratory Management Plan, an eligible academic entity must describe its procedures for each of the elements listed in subparagraph (i) of this paragraph. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of the Laboratory Management Plan. In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best management practices for each of the elements listed in subparagraph (ii) of this paragraph. The specific actions taken by an eligible academic entity to implement each element in Part II of its Laboratory Management Plan may vary from the procedures described in the eligible academic entity’s Laboratory Management Plan, without constituting a violation of this subdivision. An eligible academic entity may include additional elements and best management practices in Part II of its Laboratory Management Plan if it chooses.

(i) The eligible academic entity must implement and comply with the specific provisions of Part I of its Laboratory Management Plan. In Part I of its Laboratory Management Plan, an eligible academic entity must:

(‘a’) Describe procedures for container labeling in accordance with subparagraph 372.2(e)(7)(i), as follows:

(‘1’) Identifying whether the eligible academic entity will use the term “unwanted material” on the containers in the laboratory. If not, identify an equally effective term that will be used in lieu of “unwanted material” and consistently by the eligible academic entity in lieu of “unwanted material.” The equally effective term, if used, has the same meaning and is subject to the same requirements as “unwanted material.”

(‘2’) Identifying the manner in which information that is “associated with the container” will be imparted.

(‘b’) Identify whether the eligible academic entity will comply with clauses 372.2(e)(9)(i)(‘a’) or (‘b’) of this subdivision, for regularly scheduled removals of unwanted material from the laboratory.

(ii) In Part II of its Laboratory Management Plan, an eligible academic entity must:

(‘a’) Describe its intended best practices for container labeling and management (see the required standards at paragraph 372.2(e)(7) of this subdivision).

(‘b’) Describe its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards at subparagraph 372.2(e)(8)(i) of this subdivision).

(‘c’) Describe its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards at clause 372.2(e)(8)(iv)(‘a’) of this subdivision).

(‘d’) Describe its intended best practices for removing unwanted material from the laboratory, including:

(‘1’) For regularly scheduled removals- Develop a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards at clauses 372.2(e)(9)(i)(‘a’) and (‘b’) of this subdivision).

(‘2’) For removals when maximum volumes are exceeded:

(‘i’) Describe its intended best practices for removing unwanted materials from the laboratory within 10 calendar days when unwanted materials have exceeded their maximum volumes (see the required standards at subparagraph 372.2(e)(9)(iv) of this subdivision).

(‘ii’) Describe its intended best practices for communicating that unwanted materials have exceeded their maximum volumes.

(‘e’) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at paragraphs 372.2(a)(2) and 372.2(e)(10) through (13) of this section).

(‘f’) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in paragraph

372.2(e)(14) of this subdivision, including:

(‘1’) Procedures for conducting laboratory clean-outs (see the required standards at clauses 372.2(e)(14)(i)(‘a’) through (‘c’) of this subdivision); and

(‘2’) Procedures for documenting laboratory clean-outs (see the required standards at clause 372.2(e)(14)(i)(‘d’) of this subdivision).

(‘g’) Describe its intended best practices for emergency prevention, including:

(‘1’) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory; and

(‘2’) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date and/or as they degrade; and

(‘3’) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date and/or as they degrade; and

(‘4’) Procedures for the timely characterization of unknown chemicals.

(iii) An eligible academic entity must make its Laboratory Management Plan available to laboratory workers, students, or any others at the eligible academic entity who request it.

(iv) An eligible academic entity must review and revise its Laboratory Management Plan, as needed, but at a minimum, every five years.

(16) Unwanted material that is not solid or hazardous waste.

(i) If an unwanted material does not meet the definition of solid waste in subdivision 371.1(c) of this Title, it is no longer subject to this subdivision or to the Parts 370 through 374 and 376 hazardous waste regulations of this Title.

(ii) If an unwanted material does not meet the definition of hazardous waste in subdivision 371.1(d) of this Title, it is no longer subject to this subdivision or to the Parts 370 through 374 and 376 hazardous waste regulations of this Title, but must be managed in compliance with any other applicable regulations and/or conditions.

(17) Non-laboratory hazardous waste generated at an eligible academic entity.

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under this subdivision; and

(i) Remains subject to the generator requirements of paragraph 372.2(a)(2) and clause 372.2(a)(8)(i)('a') of this section, for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of this Part, with respect to that hazardous waste; or

(ii) Remains subject to the conditional exemption of paragraph 371.1(f)(2) of this Title, for conditionally exempt small quantity generators, with respect to that hazardous waste.

Section 372.3 introductory language through paragraph 372.3(a)(5) remain unchanged.

Subparagraph 372.3(a)(5)(i) is amended to read as follows:

(i) transports hazardous waste into the United States [form] from abroad; or

Subparagraph 372.3(a)(5)(ii) through 372.3(a)(7)(ii) remain unchanged.

Subparagraph 372.3(a)(7)(iii) is amended to read as follows:

(iii) if consolidation of loads takes place by any method, including but not limited to moving containers from one transport vehicle to another or containers are removed from transport vehicles prior to being reloaded, the transfer or storage area must be designed to meet secondary containment requirements in accordance with subdivision 373-2.9(f) of this Title.

Paragraph 372.3(a)(8) through section 372.4 remain unchanged.

Subdivision 372.5(a) is amended to read as follows:

(a) Applicability. This section establishes requirements applicable to imports and exports of hazardous waste. Except to the extent subdivision (h) of this section provides otherwise, a primary importer or exporter of hazardous waste must comply with the special requirements of this section and a transporter transporting hazardous waste for export must comply with applicable requirements of section 372.3 of this Part. Subdivision (h) of this section sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste for shipments of hazardous waste for recovery between the United States and those countries.

Subdivision 372.5(b) through paragraph 372.5(c)(1) remains unchanged.

Paragraph 372.5(c)(2) is amended to read as follows:

(2) Notifications submitted by mail should be sent to the following mailing addresses: Office of

Enforcement and Compliance Assurance, Office of [Compliance, Enforcement Planning, Targeting, and Data Division (2222A)] Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, [401 M Street SW] 1200 Pennsylvania Ave., NW., Washington, DC 20460 and to the [Regulatory Development] Manifest Section, NYSDEC, 625 Broadway, Albany, NY [12233] 12233-7252. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of [Compliance, Enforcement Planning, Targeting, and Data Division (2222A)] Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC[,] 20004, and mailed to the [Regulatory Development] Manifest Section at the above address. In all cases, the following shall be prominently displayed on the front of the envelope: “Attention: Notification of Intent to Export.”

Paragraph 372.5(c)(3) through paragraph 372.5(d)(3) remain unchanged.

Paragraph 372.5(d)(4) is amended to read as follows:

(4) The following statement must be added to the end of the first sentence of the certification set forth in [item 16] Item 15 of the uniform hazardous waste manifest form: “and conforms to the terms of the attached EPA acknowledgment of consent.”

Paragraphs 372.5(d)(5) through (9) remain unchanged.

Subdivision 372.5(e) introductory language is amended to read as follows:

(e) Exception reports. In lieu of the requirements of section 372.2(c)(3) of this Part, a primary exporter must file an exception report with the [administrator with the administrator] Environmental Protection Agency at the address listed in 40 CFR 262.82(e), as incorporated by reference in section 370.3(b) of this Title, and the department if any of the following occurs:

Paragraph 372.5(e)(1) through paragraph 372.5(f)(1) remain unchanged.

Paragraph 372.5(f)(2) is amended to read as follows:

(2) Annual reports submitted by mail should be sent to the following mailing addresses: Office of Enforcement and Compliance Assurance, [Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M St., SW.,] Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and to the [Regulatory Development] Manifest Section, NYSDEC, 625 Broadway, Albany, NY [12233] 12233-7252. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, [Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A),] Office of Federal Activities, International Compliance Assurance Division,

Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC, 20004 and mailed to the [Regulatory Development] Manifest Section at the above address.

Subdivision 372.5(g) remains unchanged.

Paragraphs 372.5(h)(1) and (2) are amended to read as follows:

(1) Any person who exports or imports hazardous waste, except “State-only waste,” subject to manifest requirements of this Part, or subject to the universal waste management standards of Subpart 374-3 of this Title, or subject to the export requirements in the spent lead-acid battery management standards of section 374-1.7 of this Title, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD) as defined in subparagraph (i) of this paragraph for purposes of recovery is subject to the requirements of this section as follows: subdivision (c) does not apply, provided however, notification that must be sent to EPA pursuant to 40 CFR section 262.83 must also be sent to the State pursuant to paragraph (c)(2) of this section; paragraphs (d)(1), (2), (3), (5), and (9) apply; subdivision (e) applies; subdivision (f) does not apply, provided however that the annual report that must be sent to EPA pursuant to 40 CFR section 262.87(a) must also be sent to the State pursuant to paragraph (f)(2); subdivision (j) applies; and subparagraphs (k)(1)(ii) through (v) apply.

(i) For the purposes of this Part, the designated OECD Member countries consist of Australia, Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Korea, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

(ii) For the purposes of this Part, Canada and Mexico are considered OECD [member] Member countries only for the purpose of transit.

(2) Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD [member] Member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of this section.

Subdivision 372.5(i) remains unchanged.

Paragraph 372.5(j)(1) is amended to read as follows:

(1) Any person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this Part and the special requirements of this subdivision, except to the extent subdivision (h) of this section provides otherwise.

Paragraph 372.5(j)(2) through 372.7(d)(4) remain unchanged.

Paragraph 372.7(d)(5) is amended to read as follows:

5) comply with testing procedures set forth in section [372.4(b)(2)] 373-2.5(b)(1)(ii) and 373-3.5(b)(1)(ii) of this Part, and submit a manifest discrepancy report where required.

Appendix 30, I. Instructions for generators, Items 9 and 9b, are amended to read as follows:

Item 9. U.S. DOT Description (Including Identification Number, Proper Shipping Name, Hazard Class or Division, [Identification Number,] and Packing Group)

Item 9a. If the wastes identified in Item 9b consist of both hazardous and nonhazardous materials, then identify the hazardous materials by entering an “X” in this Item next to the corresponding hazardous material identified in Item 9b.

Item 9b. Enter the Identification Number (UN/NA), U.S. DOT Proper Shipping Name, Hazard Class or Division, [Identification Number (UN/NA)] and Packing Group for each waste as identified in 49 CFR 172. Include technical name(s) and reportable quantity references, if applicable. USDOT requires the word ‘waste’ before or in the shipping name for all hazardous waste. See 49 CFR parts 171 thru 173 (see 6 NYCRR 370.1(e)). Contact USDOT office for description assistance.