

CREATE

Railroad Property Special Waste Procedures

Prepared by

Federal Highway Administration

Federal Railroad Administration

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CREATE Railroad Property Special Waste Procedures

This document describes the procedures for conducting surveys for special waste on Participating Railroad (Union Pacific, BNSF Railway, Canadian National Railway, CSX Transportation, Metra, and Norfolk Southern Railway) owned properties and for any properties the Participating Railroads will acquire and obtain title for CREATE projects. For properties that are held or will be acquired in the name of the state, the state will be responsible for accomplishing the special waste procedures.

1.0 Special Waste Definition

These procedures use the collective term “special waste” from the Illinois Environmental Protection Act (415 ILCS 5/3.475).

2.0 Applicability

These procedures apply to existing Participating Railroad properties on CREATE projects and for any properties the Participating Railroads will acquire and obtain title for CREATE projects.

For CREATE projects that require property acquisition and where the property will be acquired by the Illinois Department of Transportation (IDOT) or the Chicago Department of Transportation (CDOT), those properties that will be acquired for the project will be subject to IDOT special waste procedures identified in Chapter 27 of IDOT BDE Manual. Projects on existing IDOT and CDOT right-of-way will also be subject to IDOT special waste procedures identified in Chapter 27 of IDOT BDE Manual.

IDOT and/or CDOT shall be responsible for accomplishing, with the assistance of the Participating Railroads, the Special Waste Procedures described herein.

3.0 Railroad Property Special Waste Assessment Screening Process

IDOT and/or CDOT and/or their designated representatives shall, with the assistance of the Participating Railroads, perform the Special Waste Assessment (SWA) screening process on existing Participating Railroad properties and properties to be acquired by the Participating Railroads. All existing Participating Railroad properties and properties to be acquired by the Participating Railroads involved in CREATE projects will be screened according to the attached flowchart to determine whether further special waste assessments are required.

The screening process applies criteria for determining a project’s potential involvement with special waste and leads either to a determination that no further action is necessary or to the initiation of a Preliminary Environmental Site Assessment (PESA). If a PESA is required, all documentation and associated information obtained during the screening process shall be provided to IDOT and/or CDOT and/or their designated representatives so it can be utilized in accomplishing the PESA.

NOTE: If there are obvious signs of contamination, evidence of open dumping, or a record(s) of open, unresolved spills within the limits of construction, a PESA must be performed.

3.1 Information and Property Access Request for Participating Railroad Owned Property

IDOT and/or CDOT and/or their designated representatives will contact the Participating Railroads to obtain information for the screening process and to request property access. IDOT and/or CDOT and/or their designated representatives will request documentation of open, unresolved spills within the limits of construction, and previous spills of special waste within the limits of construction, including all pertinent information related to the spills (i.e. type of material spilled, quantity, date, and any remediation measures accomplished).

If Step 3, Box C of the screening process is required, IDOT and/or CDOT and/or their designated representatives will request documentation from the Participating Railroads that identifies current or previous railroad shop maintenance activities and/or fueling facilities at or directly adjacent to the project, and the previous existence of a high risk land use¹ (s) within the limits of construction.

3.2 Participating Railroad Response to Information and Property Access Request

The Participating Railroads will provide IDOT and/or CDOT and/or their designated representatives with documentation pertaining to:

1. open, unresolved spills within the limits of construction, including all pertinent information related to the spill(s) (i.e. type of material spilled, quantity, and date);
2. previous spills of special waste within the limits of construction including all pertinent information related to the spills (i.e. type of material spilled, quantity, date, and any remediation measures accomplished);
3. current or previous existence of railroad shop maintenance activities and/or fueling facilities within the limits of construction, including the years those activities occurred [if Step 3, Box C is required to complete the screening process]; and

¹ High risk land uses include unregulated municipal or private dumps and landfills, waste segregation sites, waste piles, treatment plants and outfalls, oil/plastics/chemical/electrical/electronic/adhesives manufacturing plants, photo/printing/paint/plating/battery shops, automotive bone yards, metals and paper processing plants, mining/agricultural/medical supply facilities, service stations, and dry cleaning and other cleaning operations facilities.

4. previous existence of a high risk land use(s) on the property, including all pertinent information related to the land use (i.e., type of land use, and the years the high risk land use(s) was occurring) [if Step 3, Box C is required to complete the screening process].

The Participating Railroads shall inform IDOT and/or CDOT and/or their representatives of the date(s) that property access will be provided so that a visual inspection(s) may be performed. The Participating Railroads shall also inform IDOT and/or CDOT and/or their designated representatives of any requirements for accessing the Participating Railroad properties (e.g., execution of an access agreement).

3.3 Information and Property Access Request for Properties to be Acquired by the Participating Railroads

IDOT and/or CDOT and/or their designated representatives will obtain information for the screening process and request property access, if required, from the owner(s) of property to be acquired by the Participating Railroads. IDOT and/or CDOT and/or their designated representatives will document open, unresolved spills within the limits of construction, and previous spills of special waste within the limits of construction, including all pertinent information related to the spills (i.e. type of material spilled, quantity, date, and any remediation measures accomplished).

If Step 3, Box C of the screening process is required, IDOT and/or CDOT and/or their designated representatives will prepare documentation that identifies current or previous railroad shop maintenance activities and/or fueling facilities at or directly adjacent to the project, and the previous existence of a high risk land use(s) within the limits of construction.

4.0 No Further Action Determination

IDOT and/or CDOT and/or their designated representatives do not need to undertake further action to identify and evaluate special waste contamination if completion of the SWA screening process results in the determination that no further action is necessary (Top right box in attached flow chart).

IDOT and/or CDOT and/or their designated representatives, shall complete the "CREATE Railroad Property Special Waste Screening Form" or equivalent, and shall sign and date the form. IDOT and/or CDOT and/or their designated representatives, shall ensure that the form is retained in the project file and summarized and included in the ECAD and any other additional environmental documentation for the project, to support the finding that the application of the SWA screening criteria did not indicate potential for special waste warranting further investigation.

5.0 Further Assessment Determined Necessary

If the application of the SWA screening process leads to a determination that a Preliminary Environmental Site Assessment (PESA) is required, IDOT and/or CDOT and/or their designated representatives shall complete the "CREATE Railroad Property Special Waste Screening Form" or equivalent, and shall sign and date the form. IDOT and/or CDOT and/or their designated representatives shall ensure that the form is retained in the project file and summarized and included in the ECAD and any other additional environmental documentation for the project to identify the criteria that indicated that a PESA was required. In addition to a PESA, a Preliminary Site Investigation (PSI) may be necessary, depending upon the results of the PESA. IDOT and/or CDOT and/or their designated representatives will accomplish the PESA and/or PSI.

5.1 Preliminary Environmental Site Assessment

For PESAs accomplished prior to November 2006, appropriate due diligence investigation tasks shall be conducted in accordance with ASTM E-1527 guidance. For PESAs accomplished in November 2006 and beyond, appropriate due diligence investigation tasks shall be conducted in accordance with the U.S. Environmental Protection Agency's All Appropriate Inquiry (AAI) Rule (40 CFR Part 312). For projects anticipated for processing as Categorical Exclusions, generally only a final report on the PESA investigations will be prepared. For projects anticipated to require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), an interim and a final report on the PESA investigations will be prepared. In addition to the information resulting from the historical records search and the initial site visit, the interim report will include information on general geology, hydrogeology, and inventoried facilities such as registered underground storage tank sites and potable water wells.

The final report will include all information from any interim reports prepared in addition to the results of a second site visit, field screening for soil gasses, PCB's, metals, and other factors, as appropriate. This report will include an evaluation of risk for the project, and will provide a summary of findings. The final report shall specify conditions for complying with IDOT Departmental Policy D&E-11, "Identifying and Responding to Regulated Substances, in Highway Project Development."

5.2 PESA Risk Findings

The following will apply:

1. "No Risk" or "Low Risk" Finding. If the final PESA report indicates that the project is "no risk" or "low risk" for sites potentially impacted with regulated substances, IDOT shall document this finding in the environmental documentation for the project.

2. “Moderate Risk” or “High Risk” Finding. If the PESA results in a determination that the project is “moderate risk” or “high risk” for special waste or other sites potentially impacted with regulated substances, IDOT will determine conditions for reducing the risk to an acceptable level through some means of avoidance.

The following applies:

- Avoidance Possible. If IDOT determines the project can conform to the avoidance conditions, IDOT will document the avoidance conditions and include them in the environmental document.
- Avoidance Not Possible. If IDOT determines the project cannot conform to the avoidance conditions, a PSI shall be accomplished

5.3 Preliminary Site Investigation

IDOT will proceed with the investigations of the site(s) identified in the PESA that cannot be avoided. After completing the investigations, a PSI report shall be prepared. The report will identify areas impacted by special waste or regulated substances, recommend actions to be taken, and provide estimated costs for excavating, transporting, and disposing of the contaminated material. The cost information will include two clean-up estimates for each proposed right-of-way/temporary easement parcel - one based upon proposed construction excavation and the second based on clean-up of the parcel to be obtained without regard to the proposed construction excavation. If IDOT determines the costs are unacceptable, IDOT will further investigate alternatives to avoid involvement with the special waste site(s).

A Remedial Action Plan (in the case of a cleanup option) or Risk Assessment (in the case of a proposal to leave the contamination in place) shall be prepared and approved. As practical, the selected method of addressing the site(s) and the results of coordination with IEPA shall be discussed in project environmental documents.

Construction documents shall contain plans and specifications for implementing the Remedial Action Plan, as required.

5.4 PSI Waivers

In unusual circumstances, IDOT may authorize a waiver that allows the ECAD and/or other NEPA documents to be signed prior to the accomplishment of a required PSI. Any request for a waiver shall be justified on a case-by-case basis. If a waiver is granted, the ECAD and/or other NEPA documents can be approved prior to the completion of the PSI, provided that an environmental commitment is identified in the appropriate NEPA/engineering documents for fulfilling the PSI requirements including any remediation, if appropriate, by the primary responsible Participating Railroad or responsible agency.

6.0 Property Access Requests

When PESAs and/or PSIs are required, the IDOT and/or CDOT and/or their designated representatives shall contact the Participating Railroads and/or owners of properties to be acquired by the Participating Railroads to obtain access to the property(ies).

6.1 Response to Property Access Request

The Participating Railroads shall inform IDOT and/or CDOT and/or their representatives of the date(s) that property access will be provided so that the PESA and/or PSI may be performed. The Participating Railroads shall also inform IDOT and/or CDOT and/or their designated representatives of any requirements for accessing the Participating Railroad properties (e.g., execution of an access agreement).

7.0 Inability to Complete the Railroad Property Special Waste Procedures for Properties to be Acquired by the Participating Railroads

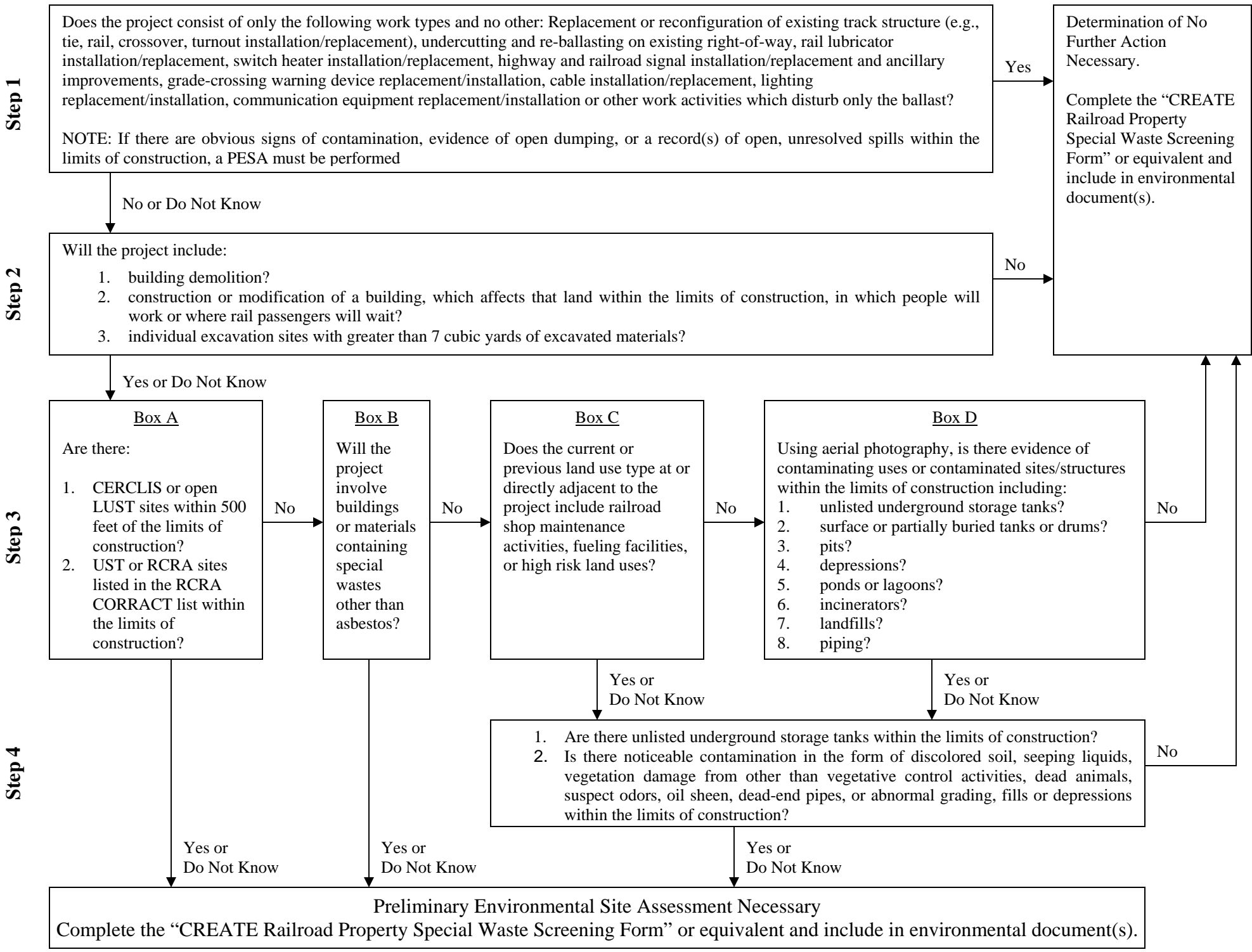
If the Railroad Property Special Waste Procedures cannot be completed on properties to be acquired by the Participating Railroads because IDOT and/or CDOT and/or their designated representatives are not provided access to the property(ies) by the property owner(s), the Special Waste Procedures will be put on hold until the property is acquired by the Participating Railroads. When the property is acquired by the Participating Railroads, IDOT and/or CDOT and/or their designated representatives shall complete the Railroad Property Special Waste Procedures included herein. The ECAD and any other NEPA document will be completed with a commitment to completely implement the Special Waste Procedures and for the Participating Railroad(s) to complete all the required remediation as recommended in any subsequent PSI report.

If the application of the Railroad Property Special Waste Procedures results in the accomplishment of a PSI, and the PSI includes remediation requirements, the Participating Railroads will complete the required remediation.

8.0 Special Waste Management

All excavated materials shall be managed, as applicable, in accordance with applicable federal and state laws and regulations including:

- all federal laws and regulations related to hazardous waste cleanup, generation and transportation of waste, identification of waste, recycling of hazardous waste, and treatment of hazardous waste;
- the Illinois Environmental Protection Act; and
- Title 35 of the Illinois Administrative Code of Regulations.



SPECIAL WASTE ASSESSMENT (SWA) SCREENING CRITERIA