

**RULEMAKING ADDENDUM
TO NOVEMBER 7, 2019 FIRST-NOTICE OPINION AND ORDER OF THE BOARD
IN DOCKET R19-18**

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 809
SPECIAL WASTE HAULING

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AUTHORITY: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2 and 27] (see P.A. 90-219).

SOURCE: Adopted in R76-10, 33 PCB 131, at 3 Ill. Reg. 13, p. 155, effective March 31, 1979; emergency amendment in R76-10, 39 PCB 175, at 4 Ill. Reg. 34, p. 214, effective August 7, 1980, for a maximum of 150 days; emergency amendment in R80-19, 40 PCB 159, at 5 Ill. Reg. 270, effective January 1, 1981, for a maximum of 150 days; amended in R77-12(B), 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R80-19, 41 PCB 459, at 5 Ill. Reg. 6378, effective May 31, 1981; codified in R81-9, 53 PCB 269, at 7 Ill. Reg. 13640, effective September 30, 1983; recodified in R84-5, 58 PCB 267, from Subchapter h to Subchapter i at 8 Ill. Reg. 13198; amended in R89-13A at 14 Ill. Reg. 14076, effective August 15, 1990; amended in R91-18 at 16 Ill. Reg. 130, effective January 1, 1992; amended in R95-11 at 20 Ill. Reg. 5635, effective March 27, 1996; amended in R98-29 at 23 Ill. Reg. 6842, effective July 1, 1999; amended in R00-18 at 24 Ill. Reg. 14747, effective September 25, 2000; amended in R06-20(A) at 34 Ill. Reg. 3317, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17398, effective October 29, 2010; amended in R12-13 at 36 Ill. Reg. 12332, effective July 18, 2012; amended in R13-8 at 37 Ill. Reg. 1206, effective January 15, 2013; amended in R19-18 at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 809.103 Definitions

"Act" means the Illinois Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Btu" or "British thermal unit" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste or special waste into or on any land or water so that such waste or special waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. [415 ILCS 5/3.08] (See "Waste", "Special Waste".)

"Garbage" is waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage and sale of produce. [415 ILCS 5/3.200] (See "Waste".)

"Hazardous waste" means a waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential threat to human health or to the environment when improperly treated, stored, transported or disposed of, or otherwise managed, and which has been identified, by characteristics or

listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to agency guidelines consistent with the requirements of the Act and Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. [415 ILCS 5/3.220]

"Hazardous waste transporter" means any person who transports hazardous waste as defined in Section ~~3-153.220~~ 5/3.220 of the Act.

"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Industrial process waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. [415 ILCS 5/3.235]

"Manifest" means the form prescribed by the Agency or USEPA and used for identifying name, quantity, and the origin, routing, and destination of special waste during its transportation from the point of generation to the point of disposal, treatment, or storage, as required by the Act, this Part, 35 Ill. Adm. Code: Subtitle G, or by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or regulations ~~thereunder~~.

"Nonhazardous special waste" means any special waste, as defined in this Section, that has not been identified, by characteristics or listing, as hazardous under pursuant to section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or under pursuant to Board regulations.

"On-site" means on the same or geographically contiguous property under pursuant to the control of the same person even if such contiguous property is divided by a public or private right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way that the person controls, and to which the public does not have access, is also considered on-site property.

"Permitted disposal site" means a sanitary landfill or other type of disposal site, including but not limited to a deep well, a pit, a pond, a lagoon or an impoundment that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for disposal.

"Permitted storage site" means any site used for the interim containment of special waste prior to disposal or treatment that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency-specifically permitting the site to accept a special waste tendered for storage.

"Permitted treatment site" means any site used to change the physical, chemical or biological character or composition of any special waste, including but not limited to a processing center, a reclamation facility or a recycling center that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for treatment.

"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assignee. [415 ILCS 5/3.315]

"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, scrubber sludges and chemical spill cleanings. [415 ILCS 5/3.335]

"Reclamation" means the recovery of material or energy from waste for commercial or industrial use.

"Refuse" means any garbage or other discarded materials, with the exception of radioactive materials discarded in compliance accordance with the provisions of the Radiation Protection Act [420 ILCS 40] and Radioactive Waste Storage Act [420 ILCS 35]. (See "Waste")

"Septic tank pumpings" means the liquid portions and sludge residues removed from septic tanks.

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations under the Act. [415 ILCS 5/3.460]

"Solid waste" (see "Waste").

"Special waste" *means any of the following:*

Potentially infectious medical waste;

Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 Ill. Adm. Code 722.111, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with 35 Ill. Adm. Code 726 and proven to be nonhazardous;

Industrial process waste or pollution control waste, except:

Any such waste certified by its generator, pursuant to Section 22.48 of the Act, not to be any of the following:

A liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107 (m)(3)(A);

*Regulated asbestos-containing waste materials, as defined under the National Emission Standards for Hazardous Air Pollutants in 40 CFR 61.141;
Polychlorinated biphenyls (PCBs) regulated pursuant to 40 CFR 761;*

An industrial process waste or pollution control waste subject to the waste analysis and recordkeeping requirements of 35 Ill. Adm. Code 728.107 under the land disposal restrictions of 35 Ill. Adm. Code 728; and

A waste material generated by processing recyclable metals by shredding and required to be managed as a special waste under Section 22.29 of the Act;

Any empty portable device or container, including but not limited to a drum, in which a special waste has been stored, transported, treated, disposed of, or otherwise handled, provided that the generator has certified that the device or container is empty and does not contain a liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107 of Title 35 of the Illinois Administrative Code (m)(3)(A). "Empty portable device or container" means a device or container in which removal of special waste, except for a residue that shall not exceed one inch in thickness, has been accomplished by a practice commonly employed to remove materials of that type. An inner liner used to prevent contact between the special waste and the container shall be removed and managed as a special waste; or

As may otherwise be determined under Section 22.9 of the Act. [415 ILCS 5/3.475]

"Special waste hauling vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, used to transport special waste in bulk or packages, tanks, or other containers.

"Special waste transporter" means any person who transports special waste from any location.

"Spill" means any accidental discharge of special waste.

"Storage" means the interim containment of special waste prior to disposal or treatment.

"Tank" means any bulk container placed on or carried by a vehicle to transport special waste, including wheel mounted tanks.

"Treatment" means any method, technique or process, including neutralization designed to change the physical, chemical or biological character or composition of any special waste so as to neutralize that waste or so as to render that waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume.

"Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste to render it nonhazardous. [415 ILCS 5/3.505]
Treatment also includes reclamation, re-use and recycling of special waste.

"Truck" means any unitary vehicle used to transport special waste.

"Truck tractor" means any motor vehicle used to transport special waste that is designed and used for drawing other devices and not so constructed as to carry a load other than a part of the weight of the device and load so drawn.

"Uniform permit" means the permit issued by a base state under Part II of the uniform application.

"Uniform registration" means the annual registration issued by a base state under Part I of the uniform application, if the base state has a registration requirement.

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135 of the Act, or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to The Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. [415 ILCS 5/3.535]

"Washwater", as used in this Part, means a mixture of water, nonhazardous cleaning compounds, and residue that results from cleaning surfaces and equipment and that is collected separately from sewage.

"Wastewater", as used in this Part, means stormwater, surface water, groundwater or nonhazardous washwater that has been contaminated with used oil but has not been mixed with sewage, industrial waste or any other waste.

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

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section 809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

- a) Any person who delivers special waste to a permitted special waste transporter must ~~shall~~ complete a ~~uniform hazardous waste~~ manifest to accompany the special waste from delivery to the destination of the special waste. The following are exceptions to this requirement:
- 1) The generator or transporter is not required to complete a manifest for used oil that is defined by and managed in compliance ~~accordance~~ with 35 Ill. Adm. Code 739.
 - 2) The generator or transporter is not required to complete a manifest for the following used oil mixtures, provided that the generator or transporter complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
 - A) Mixtures of used oil as defined by and managed in compliance ~~accordance~~ with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that the mixture contains more than 50 percent used oil by either volume or weight;
 - B) Mixtures of used oil as defined by and managed in compliance ~~accordance~~ with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content greater than 5,000 prior to being mixed with the used oil, when:
 - i) the characteristic has been extinguished in the resultant mixture;
 - ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and

- iii) the mixture contains more than 50 percent used oil by either volume or weight;
 - C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
 - D) Used oil as defined by and managed in compliance ~~accordance~~ with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.
- b) The generator must ~~shall~~ include in the manifest the following:
 - 1) The name of the generator of the special waste and generator number;
 - 2) Information stating when and where the special waste was generated;
 - 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
 - 4) The name and permit number of the transporter;
 - 5) The date of delivery; and
 - 6) The classification and quantity of the special waste delivered to the transporter.
- c) For hazardous waste, the ~~The~~ manifest will consist of forms prescribed by USEPA for the Uniform Hazardous Waste Manifest and will be distributed in compliance ~~accordance~~ with those requirements. For nonhazardous special waste, the manifest will consist of forms prescribed by the Agency, provided that the forms must comply with the requirements of Section 22.01 of the Act and may be purchased from a third party. The person who delivers special waste to a special waste transporter must ~~shall~~ retain the designated parts of the manifest as a record. The remaining parts of the manifest must ~~shall~~ accompany the special waste shipment. At the destination, the manifest must ~~shall~~ be signed by the person who accepts special waste from a special waste transporter, acknowledging receipt of the special waste.
- d) A permitted site that receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product ~~thereof~~ to

a special waste transporter ~~must~~ shall be conducted under a manifest initiated by the permitted disposal, storage or treatment site.

- e) In all cases, the special waste transporter ~~must~~ shall deliver the designated parts of the complete, signed manifest to the person who accepts delivery of special waste from the transporter. The special waste transporter ~~must~~ shall retain the designated part of the complete, signed manifest as a record of delivery to a permitted disposal, storage or treatment site. In addition, at the end of each month, or longer if approved by the Agency, the owner and the operator of the permitted disposal, storage or treatment site who accepts special waste from a special waste transporter ~~must~~ shall send the designated part of the completed manifest to the person who delivered the special waste to the special waste transporter.
- f) Every generator who delivers special waste to a special waste transporter, every person who accepts special waste from a special waste transporter and every special waste transporter ~~must~~ shall retain their respective parts of the special waste manifest as a record of all special waste transactions. These parts ~~must~~ shall be retained for three years and will be made available at reasonable times for inspection and photocopying by the Agency.

BOARD NOTE: The manifest requirements of 35 Ill. Adm. Code 722, 724 and 725 relative to RCRA hazardous wastes are not affected by this subsection.

- g) Every in-State facility that accepts nonhazardous-special waste from a special waste transporter ~~must~~ shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports should, at a minimum, include the information specified in subsection (h) ~~of this Section~~ and be received by the Agency no later than February 1. This subsection is applicable to all nonhazardous special wastes that are delivered to a special waste transporter on or after January 1, 1991.
- h) Every annual report required to be filed with the Agency by a person accepting nonhazardous special waste from a special waste transporter pursuant to subsection (g) ~~of this Section~~ must ~~shall~~ include the following information:
 - 1) The IEPA identification number, name and address of the facility;
 - 2) The period (calendar year) covered by the report;
 - 3) The IEPA identification number, name and address of each nonhazardous special waste generator from which the facility received a nonhazardous special waste during the period;

- 4) A description and the total quantity of each nonhazardous special waste the facility received from off-site during the period. This information must ~~shall~~ be listed by IEPA identification number of each generator;
- 5) The method of treatment, storage or disposal for each nonhazardous special waste; and
- 6) A certification signed by the owner or operator of the facility or the owner's or operator's authorized representative.

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