



## OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

January 3, 2019

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POLLUTION CONTROL BOARD  
DON BROWN  
100 W RANDOLPH ST  
STE 11-500  
CHICAGO, IL 60601

STATE OF ILLINOIS  
*Pollution Control Board*

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 43, Issue 1 of the Illinois Register, dated 1/4/2019.

### ADOPTED RULES

Emissions Reduction Market System 35 Ill. Adm. Code 205 Point of Contact: Nancy Hoepfner	441
Hazardous Waste Management System: General 35 Ill. Adm. Code 720 Point of Contact: Mike McCambridge	446
Identification and Listing of Hazardous Waste 35 Ill. Adm. Code 721 Point of Contact: Mike McCambridge	496
Standards Applicable to Generators of Hazardous Waste 35 Ill. Adm. Code 722 Point of Contact: Mike McCambridge	563
Standards Applicable to Transporters of Hazardous Waste 35 Ill. Adm. Code 723 Point of Contact: Mike McCambridge	585
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities 35 Ill. Adm. Code 724 Point of Contact: Mike McCambridge	601
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal	

Index Department - Administrative Code Division - 111 East Monroe Springfield, IL 62756



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### Facilities

35 Ill. Adm. Code 725 634  
Point of Contact: Mike McCambridge

### Standards for the Management of Used Oil

35 Ill. Adm. Code 739 667  
Point of Contact: Mike McCambridge

### AGENCY REFUSAL IN RESPONSE TO A STATEMENT OF OBJECTION

#### Emissions Reduction Market System

35 Ill. Adm. Code 205 818  
Point of Contact: Nancy Hoepfner

### REGULATORY AGENDA

#### Definitions and General Provisions

35 Ill. Adm. Code 211 870  
Point of Contact: Nancy Hoepfner

If you have any questions, you may contact the Administrative Code Division at  
(217) 782 - 7017.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards for the Management of Used Oil
- 2) Code citation: 35 Ill. Adm. Code 739
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
739.100	Amendment
739.110	Amendment
739.120	Amendment
739.122	Amendment
739.124	Amendment
739.130	Amendment
739.131	Amendment
739.132	Amendment
739.140	Amendment
739.141	Amendment
739.144	Amendment
739.145	Amendment
739.146	Amendment
739.150	Amendment
739.152	Amendment
739.154	Amendment
739.156	Amendment
739.160	Amendment
739.161	Amendment
739.163	Amendment
739.164	Amendment
739.165	Amendment
739.166	Amendment
739.170	Amendment
739.174	Amendment
739.175	Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective date of rule: **NOV 19 2018**
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31,

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and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.

- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 12722; July 6, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the proposal and the final version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the July 6, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.
- 14) Are there any other rulemakings pending on this Part? No.

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- 15) Summary and purpose of rulemaking: The amendments to Part 739 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the Illinois Register. Included in this issue are the fifth and final group for publication: 35 Ill. Adm. Code 728, 733, 738, and 739.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 728. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 739 incorporate USEPA's action of November 28, 2016 adopting the Generator Improvements Rule.

The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to

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this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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

312-814-6924  
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 739

STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section  
739.100      Definitions

SUBPART B: APPLICABILITY

Section  
739.110      Applicability  
739.111      Used Oil Specifications  
739.112      Prohibitions  
739.113      Electronic Reporting

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section  
739.120      Applicability  
739.121      Hazardous Waste Mixing  
739.122      Used Oil Storage  
739.123      On-Site Burning in Space Heaters  
739.124      Off-Site Shipments

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS AND  
AGGREGATION POINTS

Section  
739.130      Do-It-Yourselfer Used Oil Collection Centers  
739.131      Used Oil Collection Centers  
739.132      Used Oil Aggregate Points Owned by the Generator

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SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND  
TRANSFER FACILITIES

Section

- 739.140 Applicability
- 739.141 Restrictions on Transporters that Are Not Also Processors
- 739.142 Notification
- 739.143 Used Oil Transportation
- 739.144 Rebuttable Presumption for Used Oil
- 739.145 Used Oil Storage at Transfer Facilities
- 739.146 Tracking
- 739.147 Management of Residues

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section

- 739.150 Applicability
- 739.151 Notification
- 739.152 General Facility Standards
- 739.153 Rebuttable Presumption for Used Oil
- 739.154 Used Oil Management
- 739.155 Analysis Plan
- 739.156 Tracking
- 739.157 Operating Record and Reporting
- 739.158 Off-Site Shipments of Used Oil
- 739.159 Management of Residues

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-  
SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section

- 739.160 Applicability
  - 739.161 Restriction on Burning
  - 739.162 Notification
  - 739.163 Rebuttable Presumption for Used Oil
  - 739.164 Used Oil Storage
  - 739.165 Tracking
  - 739.166 Notices
  - 739.167 Management of Residues
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SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section	
739.170	Applicability
739.171	Prohibitions
739.172	On-Specification Used Oil Fuel
739.173	Notification
739.174	Tracking
739.175	Notices

SUBPART I: DISPOSAL OF USED OIL

Section	
739.180	Applicability
739.181	Disposal
739.182	Use As a Dust Suppressant

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008; amended in R06-20(A) at 34 Ill. Reg. 3296, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17381, effective October 29, 2010; amended in R13-15 at 37 Ill. Reg. 17963, effective October 24, 2013; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: DEFINITIONS

**Section 739.100 Definitions**

Terms that are defined in 35 Ill. Adm. Code 720.110, 721.101, and 731.112 have the same meanings when used in this Part.

“Aboveground tank” means a tank used to store or process used oil that is not an underground storage tank, as defined in 35 Ill. Adm. Code 280.12.

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BOARD NOTE: This definition is different from the definition for “aboveground tank” given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks that contain hazardous wastes. This definition of aboveground tank is limited to this Part only.

“Classification”, as used in this Part, means a short description of the waste generating activity and designation as either hazardous waste with the appropriate hazardous waste code, nonhazardous used oil, nonhazardous used oil mixture, or nonhazardous other special waste.

“Container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

“Do-it-yourselfer used oil collection center” means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

“Existing tank” means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation had commenced on or prior to October 4, 1996. Installation will be considered to have commenced if the owner or operator had obtained all federal, state, and local approvals or permits necessary to begin installation of the tank and if either of the following had occurred:

A continuous on-site installation program had begun; or

The owner or operator had entered into contractual obligations that cannot be canceled or modified without substantial loss for installation of the tank to be completed within a reasonable time.

BOARD NOTE: This definition is similar to the definition for “Existing tank system” in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for “existing tank” in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks systems that contain hazardous wastes. This definition of existing tank is limited to this Part only.

“Household ‘do-it-yourselfer’ used oil” means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.

BOARD NOTE: Household “do-it-yourselfer” used oil is not subject to the State’s special waste hauling permit requirements under Part 809.

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“Household ‘do-it-yourselfer’ used oil generator” means an individual who generates household “do-it-yourselfer” used oil.

“New tank” means a tank that will be used to store or process used oil and for which installation had commenced after October 4, 1996.

BOARD NOTE: This definition is similar to the definition given for “New tank system” given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for “new tank” in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates new tanks systems that contain hazardous wastes. This definition of new tank is limited to this Part only.

“Petroleum refining facility” means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

“Processing” means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining.

“Re-refining distillation bottoms” means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

“Tank” means any stationary device, designed to contain an accumulation of used oil that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

“Used oil” means any oil that has been refined from crude oil or any synthetic oil that has been used and as a result of such use is contaminated by physical or chemical impurities.

“Used oil aggregation point” means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons (208 ℓ). Used oil aggregation points may also accept used oil from household do-it-yourselfers.

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“Used oil burner” means a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a).

“Used oil collection center” means any site or facility that is registered by the Agency to manage used oil and accepts or aggregates and stores used oil collected from used oil generators regulated under Subpart C ~~of this Part~~ that bring used oil to the collection center in shipments of no more than 55 gallons (208 ~~l~~) under the provisions of Section 739.124. Used oil collection centers may also accept used oil from household do-it-yourselfers.

“Used oil fuel marketer” means any person that conducts either of the following activities:

Directs a shipment of off-specification used oil from their facility to a used oil burner; or

First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

“Used oil generator” means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

“Used oil processor” means a facility that processes used oil.

“Used oil transfer facility” means any transportation-related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to Section 739.120(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F ~~of this Part~~.

“Used oil transporter” means any person that transports used oil, any person that collects used oil from more than one generator and that transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

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

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SUBPART B: APPLICABILITY

**Section 739.110 Applicability**

This Section identifies those materials that are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under this Part, and indicates whether these materials may be subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728.

- a) ~~Used Oil-oil.~~ Used oil is presumed to be recycled, unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.
- b) Mixtures of Used Oil ~~used oil~~ and Hazardous Waste ~~hazardous waste~~.
  - 1) Listed Hazardous Waste ~~hazardous waste~~.
    - A) A mixture of used oil and hazardous waste that is listed in Subpart D of 35 Ill. Adm. Code 721 is subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728, rather than as used oil under this Part.
    - B) Rebuttable Presumption ~~presumption for Used Oil-used oil~~. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. An owner or operator may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).
  - i) This rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. This presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.

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- ii) This rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. This rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
  
  - 2) ~~Characteristic Hazardous Waste hazardous waste.~~ A mixture of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in Subpart C of 35 Ill. Adm. Code 721 and a mixture of used oil and hazardous waste that is listed in Subpart D ~~of this Part~~ solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 is subject to the following:
    - A) Except as provided in subsection (b)(2)(C) ~~of this Section,~~ regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721; ~~or~~
  
    - B) Except as provided in subsection (b)(2)(C) ~~of this Section,~~ regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721.
  
    - C) Regulation as used oil under this Part, if the mixture is of used oil and a waste that is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.
  
  - 3) ~~VSQG Hazardous Waste~~ ~~Conditionally exempt small quantity generator hazardous waste.~~ A mixture of used oil and VSQG conditionally exempt small quantity generator hazardous waste regulated under 35 Ill. Adm. Code 722.114-721.105 is subject to regulation as used oil under this Part.
- c) Materials Containing ~~containing~~ or Otherwise Contaminated ~~otherwise~~ contaminated with Used Oil ~~used oil.~~
- 1) Except as provided in subsection (c)(2) ~~of this Section,~~ the following is true of a material containing or otherwise contaminated with used oil from

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which the used oil has been properly drained or removed to the extent possible so that no visible signs of free-flowing oil remain in or on the material:

- A) The material is not used oil, so it is not subject to this Part<sub>3</sub>; and
  - B) If applicable, the material is subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728.
- 2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.
- 3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.
- d) Mixtures of Used Oil ~~used oil~~ with Products ~~products~~.
- 1) Except as provided in subsection (d)(2) ~~of this Section~~, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.
  - 2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C ~~of this Part~~.
- e) Materials Derived ~~derived~~ from Used Oil ~~used oil~~.
- 1) The following is true of materials that are reclaimed from used oil, which are used beneficially, and which are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants):
    - A) The materials are not used oil and thus are not subject to this Part<sub>3</sub>; and
    - B) The materials are not solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).

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- 2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.
- 3) Except as provided in subsection (e)(4) ~~of this Section~~, the following is true of materials derived from used oil that are disposed of or used in a manner constituting disposal:
  - A) The materials are not used oil and thus are not subject to this Part;  
and
  - B) The materials are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728 if the materials are listed or identified as hazardous waste.
- 4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.
- f) Wastewater. Wastewater, the discharge of which is subject to regulation under either ~~section~~ Section 402 or ~~Section~~ 307(b) of the federal Clean Water Act (including wastewaters at facilities that have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, “de minimis” quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.
- g) Used Oil Introduced into Crude Oil Pipelines ~~oil introduced into Crude Oil Pipelines or a Petroleum Refining Facility~~ ~~crude oil pipelines or a petroleum refining facility~~.
  - 1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.
  - 2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining

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process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Part.

- 3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than one percent of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of this Part.
- 4) Except as provided in subsection (g)(5) ~~of this Section~~, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Part.
- 5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).
- 6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.
- h) ~~Used Oil on Vessels-vessels~~. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.
- i) ~~Used Oil Containing oil-containing~~PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3 (Definitions), incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements of 40 CFR 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is subject to regulation under federal 40 CFR 761.

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No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

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

SUBPART C: STANDARDS FOR USED OIL GENERATORS

**Section 739.120 Applicability**

- a) General. This Subpart C applies to all generators of used oil, except the following:
- 1) Household ~~“Do-It-Yourselfer” Used Oil Generators~~ ~~“do-it-yourselfer” used oil generators~~. Household “do-it-yourselfer” used oil generators are not subject to regulation under this Part.
  - 2) Vessels. Vessels at sea or at port are not subject to this Subpart C. For purposes of this Subpart C, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the persons removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this Subpart C once the used oil is transported ashore. The co-generators may decide among themselves which party will fulfill the requirements of this Subpart C.
  - 3) Diesel ~~Fuel-fuel~~. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator’s own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this Subpart C.
  - 4) Farmers. Farmers who generate an average of 25 gallons (95 ℓ) per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this Part.
- b) Other Applicable Provisions ~~applicable provisions~~. A used oil generator that conducts any of the following activities is subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5):
- 1) A generator that transports used oil, except under the self-transport provisions of Section 739.124(a) and (b), must also comply with Subpart E ~~of this Part~~.

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- 2) A Generator That Processes generator that processes or Re-Refines Used Oil re-refines used oil.
- A) Except as provided in subsection (b)(2)(B) ~~of this Section~~, a generator that processes or re-refines used oil must also comply with Subpart F ~~of this Part~~.
- B) A generator that performs the following activities is not a used oil processor, provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel:
- i) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;
  - ii) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to ~~section~~ Section 402 or 307(b) for the federal Clean Water Act (33 USC 1317 or 1342), 40 CFR 403 through 499, or 35 Ill. Adm. Code 310 or 309, governing the discharge of wastewaters;
  - iii) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;
  - iv) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to Section 739.110(c); or
  - v) Filtering, separating, or otherwise reconditioning used oil before burning it in a space heater pursuant to Section 739.123.
- 3) A generator that burns off-specification used oil for energy recovery, except under the on-site space heater provisions of Section 739.123, must also comply with Subpart G ~~of this Part~~.
- 4) A generator that directs shipments of off-specification used oil from their facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~.

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- 5) A generator that disposes of used oil must also comply with Subpart I of this Part.

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

**Section 739.122 Used Oil Storage**

A used oil generator is subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. A used oil generator is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

- a) Storage Units-units. A used oil generator may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of Units-units. The following must be true of containers and aboveground tanks used to store used oil at a generator facility:
- 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) The containers may not be leaking (no visible leaks).
- c) Labels:
- 1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil:".
  - 2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil:".
- d) Response to Releases-releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a generator must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.22(d) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located:". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA

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approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted “the effective date of the authorized used oil program” to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like “the effective date of the used oil program in the authorized State in which the release is located;”, the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials; and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

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

**Section 739.124 Off-Site Shipments**

Except as provided in subsections (a) through (c) ~~of this Section~~, a generator must ensure that its used oil is transported only by transporters that have obtained a USEPA identification number and an Illinois special waste identification number pursuant to 35 Ill. Adm. Code 809.

BOARD NOTE: A generator that qualifies for an exemption under subsections Section 739.124(a) through (c) may still be subject to the State’s special waste hauling permit requirements under 35 Ill. Adm. Code 809.

- a) Self-Transportation of Small Amounts to Registered Collection Centers ~~Self-transportation of Small Amounts to Registered Collection Centers-registered collection centers~~. A generator may transport, without a USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator’s site and used oil collected from household do-it-yourselfers to a used oil collection center provided that the following conditions are fulfilled:
  - 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
  - 2) The generator transports no more than 55 gallons (208 ℓ) of used oil at any time; and

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- 3) The generator transports the used oil to a used oil collection center that has registered by written notification with the Agency to manage used oil. This notification must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must be submitted on forms provided by the Agency.
  
- b) Self-Transportation of Small Amounts to Aggregation Points Owned by the Generator ~~Self-transportation of Small Amounts to Aggregation Points Owned aggregation points owned by the Generator-generator~~. A generator may transport, without a USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site to an aggregation point provided that the following conditions are fulfilled:
  - 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
  - 2) The generator transports no more than 55 gallons (208 ℓ) of used oil at any time; and
  - 3) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.
  
- c) Tolling Arrangements ~~arrangements~~. A used oil generator may arrange for used oil to be transported by a transporter without a USEPA identification number and an Illinois special waste identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor to the generator for use as a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") must indicate the following information:
  - 1) The type of used oil and the frequency of shipments;
  - 2) That the vehicle used to transport the used oil to the processing facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor; and
  - 3) That reclaimed oil will be returned to the generator.

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

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SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS AND  
AGGREGATION POINTS

**Section 739.130 Do-It-Yourselfer Used Oil Collection Centers**

- a) Applicability. This Section applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.
- b) ~~DIY Used Oil Collection Center Requirements~~ ~~used oil collection center requirements~~. Owners or operators of all DIY used oil collection centers must comply with the generator standards in Subpart C ~~of this Part~~.

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

**Section 739.131 Used Oil Collection Centers**

- a) Applicability. This Section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts, aggregates or stores used oil collected from used oil generators regulated under Subpart C ~~of this Part~~ who bring used oil to the collection center in shipments of no more than 55 gallons (208 ℓ) under the provisions of Section 739.124(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) ~~Used Oil Collection Center Requirements~~ ~~oil collection center requirements~~. Owners or operators of all used oil collection centers must do the following:
  - 1) Comply with the generator standards in Subpart C ~~of this Part~~; and
  - 2) Be registered by the Agency to manage used oil. The used oil collection center must register by written notification with the Agency to manage used oil. This notification must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must be submitted on forms provided by the Agency.

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

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**Section 739.132 Used Oil Aggregate Points Owned by the Generator**

- a) **Applicability.** This Section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons (208 ℓ) under the provisions of Section 739.124(b). A used oil aggregation point may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) ~~Used Oil Aggregation Point Requirements~~ ~~oil aggregation point requirements.~~ Owners or operators of all used oil aggregation points must comply with the generator standards in Subpart C ~~of this Part.~~

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

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND  
TRANSFER FACILITIES

**Section 739.140 Applicability**

- a) **General.** Except as provided in subsections (a)(1) through (a)(4) ~~of this Section,~~ this Subpart E applies to all used oil transporters. A used oil transporter is a person that transports used oil, a person that collects used oil from more than one generator and transport the collected oil, and an owner or operator of a used oil transfer facility.
- 1) This Subpart E does not apply to on-site transportation.
  - 2) This Subpart E does not apply to a generator that transports shipments of used oil totaling 55 gallons (208 ℓ) or less from the generator to a used oil collection center as specified in Section 739.124(a).
  - 3) This Subpart E does not apply to a generator that transports shipments of used oil totaling 55 gallons (208 ℓ) or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in Section 739.124(b).

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- 4) This Subpart E does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor, or burner subject to the requirements of this Part. Except as provided in subsections (a)(1) through (a)(3) ~~of this Section~~, this Subpart E does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

BOARD NOTE: A generator that qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) Imports and ~~Exports~~ ~~exports~~. A transporter that imports used oil from abroad or export used oil outside of the United States are subject to the requirements of this Subpart E from the time the used oil enters and until the time it exits the United States.
- c) Trucks ~~Used used to Transport Hazardous Waste~~ ~~transport hazardous waste~~. Unless trucks previously used to transport hazardous waste are emptied as described in 35 Ill. Adm. Code 721.107 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of Section 739.110(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.
- d) Other ~~Applicable Provisions~~ ~~applicable provisions~~. A used oil transporter that conducts the following activities are also subject to other applicable provisions of this Part as indicated in subsections (d)(1) through (d)(5) ~~of this Section~~:
- 1) A transporter that generates used oil must also comply with Subpart C ~~of this Part~~;
  - 2) A transporter that processes or re-refines used oil, except as provided in Section 739.141, must also comply with Subpart F ~~of this Part~~;
  - 3) A transporter that burns off-specification used oil for energy recovery must also comply with Subpart G ~~of this Part~~;
  - 4) A transporter that directs shipments of off-specification used oil from its facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and

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- 5) A transporter that disposes of used oil must also comply with Subpart I of ~~this Part~~.

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

**Section 739.141 Restrictions on Transporters that Are Not Also Processors**

- a) A used oil transporter may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in subsection (b) ~~of this Section~~, a used oil transporter may not process used oil unless they also comply with the requirements for processors in Subpart F ~~of this Part~~.
- b) A transporter may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless it also complies with the processor requirements in Subpart F ~~of this Part~~.
- c) A transporter of used oil that is removed from oil-bearing electrical transformers and turbines and which is filtered by the transporter or at a transfer facility prior to being returned to its original use is not subject to the processor and re-refiner requirements in Subpart F ~~of this Part~~.

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

**Section 739.144 Rebuttable Presumption for Used Oil**

- a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section ~~739.110(b)(1)(B)~~ ~~739.110(b)(1)(ii)~~, the used oil transporter must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.
- b) The transporter must make this determination by the following means:
- 1) Testing the used oil; or
  - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or

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operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).

- 1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.
- 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- d) Record ~~Retention~~ retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~of this Section~~ must be maintained by the transporter for at least three years.

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

**Section 739.145 Used Oil Storage at Transfer Facilities**

A used oil transporter is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart E. A used oil transporter is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

- a) Applicability. This Section applies to used oil transfer facilities. Used oil transfer facilities are transportation-related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. A transfer facility that store used oil for more than 35 days are subject to regulation under Subpart F ~~of this Part~~.
- b) Storage Units ~~units~~. An owner or operator of a used oil transfer facility may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

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- c) Condition of ~~Units~~units. The following must be true of containers and aboveground tanks used to store used oil at a transfer facility:
- 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) The containers may not be leaking (no visible leaks).
- d) Secondary ~~Containment~~containment for ~~Containers~~containers. Containers used to store used oil at a transfer facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary ~~Containment~~containment for ~~Existing Aboveground Tanks~~existing aboveground tanks. Existing aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

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- B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) ~~Secondary Containment~~ ~~containment for New Aboveground Tanks~~ ~~new aboveground tanks~~. New aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.
  - 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- g) Labels:
  - 1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil:".
  - 2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil:".
- h) Response to ~~Releases~~ ~~releases~~. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, an owner or operator of a transfer facility must perform the following cleanup steps:

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BOARD NOTE: Corresponding 40 CFR 279.45(h) applies to releases that “occurred after the effective date of the authorized used oil program for the State in which the release is located.”. The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted “the effective date of the authorized used oil program” to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like “the effective date of the used oil program in the authorized State in which the release is located;”, the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials; and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

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

**Section 739.146 Tracking**

- a) Acceptance. A used oil transporter must keep a record of each used oil shipment accepted for transport. Records for each shipment must include the following:
  - 1) The name and address of the generator, transporter, or processor that provided the used oil for transport;
  - 2) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator, transporter, or processor that provided the used oil for transport;
  - 3) The quantity of used oil accepted;
  - 4) The date of acceptance;
  - 5) The signature:

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- A) Except as provided in subsection (a)(5)(B) ~~of this Section~~, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor or re-refiner that provided the used oil for transport.
  - B) An intermediate rail transporter is not required to sign the record of acceptance; and
- 6) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
- A) Information stating when and where the special waste was generated;
  - B) The classification and quantity of the special waste delivered to the transporter;
  - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
  - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- b) Deliveries. A used oil transporter must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:
- 1) The name and address of the receiving facility or transporter;
  - 2) The USEPA identification number and Illinois special waste identification number of the receiving facility or transporter;

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- 3) The quantity of used oil delivered;
- 4) The date of delivery;
- 5) The signature:
  - A) Except as provided in subsection (b)(5)(B) ~~of this Section~~, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.
  - B) An intermediate rail transporter is not required to sign the record of acceptance.
- c) Exports of Used Oil ~~used oil~~. A used oil transporter must maintain the records described in subsections (b)(1) through (b)(4) ~~of this Section~~ for each shipment of used oil exported to any foreign country.
- d) Record Retention ~~retention~~. The records described in subsections (a), (b), and (c) ~~of this Section~~ must be maintained for at least three years.

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

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

**Section 739.150 Applicability**

- a) The requirements of this Subpart F apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining. The requirements of this Subpart F do not apply to the following:
  - 1) A transporter that conducts incidental processing operations that occur during the normal course of transportation, as provided in Section 739.141; or
  - 2) A burner that conducts incidental processing operations that occur during the normal course of used oil management prior to burning, as provided in Section 739.161(b).

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- b) ~~Other Applicable Provisions~~ ~~applicable provisions~~. A used oil processor that conducts the following activities are also subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5) ~~of this Section~~.
- 1) A processor that generates used oil must also comply with Subpart C ~~of this Part~~;
  - 2) A processor that transports used oil must also comply with Subpart E ~~of this Part~~;
  - 3) Except as provided in subsections (b)(3)(A) and (b)(3)(B) ~~of this Section~~, a processor that burns off-specification used oil for energy recovery must also comply with Subpart G ~~of this Part~~. Processors burning used oil for energy recovery under the following conditions are not subject to Subpart G ~~of this Part~~:
    - A) The used oil is burned in an on-site space heater that meets the requirements of Section 739.123; or
    - B) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;
  - 4) A processor that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and
  - 5) A processor that disposes of used oil also must comply with Subpart I ~~of this Part~~.

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

**Section 739.152 General Facility Standards**

- a) Preparedness and ~~Prevention~~ ~~prevention~~. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:
- 1) Maintenance and ~~Operation~~ ~~operation~~ of a ~~Facility~~ ~~facility~~. All facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water that could threaten human health or the environment.

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- 2) Required Equipment ~~equipment~~. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in this subsection (a)(2) ~~subsections (a)(2)(A) through (a)(2)(D) of this Section~~:
- A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
  - B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;
  - C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and
  - D) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.
- 3) Testing and Maintenance ~~maintenance of Equipment~~ ~~equipment~~. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.
- 4) Access to Communications ~~communications or Alarm System~~ ~~alarm system~~.
- A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2) ~~of this Section~~.
  - B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external

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emergency assistance, unless such a device is not required in subsection (a)(2) ~~of this Section.~~

- 5) Required ~~Aisle Space~~ aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
- 6) Arrangements with ~~Local Authorities~~ local authorities.
  - A) The owner or operator must attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:
    - i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
    - ii) ~~If Where~~ more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
    - iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
    - iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.
  - B) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

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- b) Contingency ~~Plan~~ ~~plan~~ and Emergency Procedures ~~emergency procedures~~. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:
- 1) Purpose and ~~Implementation~~ ~~implementation~~ of Contingency Plan ~~contingency plan~~.
    - A) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.
    - B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil that could threaten human health or the environment.
  - 2) Content of Contingency Plan ~~contingency plan~~.
    - A) The contingency plan must describe the actions facility personnel must take to comply with subsections (b)(1) and (b)(6) ~~of this Section~~ in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.
    - B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112 or some other emergency or contingency plan exists for the facility under federal, State, or local regulation (e.g., federal 40 CFR 300 or 40 CFR 280), the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.
    - C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) ~~of this Section~~.
    - D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) ~~of this Section~~), and this list must be kept up to date. Where more than one person is listed, one must be named as

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primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

- E) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
  - F) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).
- 3) Copies of ~~Contingency Plan~~ ~~contingency plan~~. Copies of the contingency plan and all revisions to the plan must be disposed of as follows:
- A) Maintained at the facility; and
  - B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
- 4) Amendment of ~~Contingency Plan~~ ~~contingency plan~~. The contingency plan must be reviewed, and immediately amended, if necessary, whenever one of the following occurs:
- A) Applicable regulations are revised;
  - B) The plan fails in an emergency;
  - C) The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;
  - D) The list of emergency coordinators changes; or
  - E) The list of emergency equipment changes.

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- 5) ~~Emergency Coordinator~~ ~~coordinator~~. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: USEPA cited the following as guidance: "The emergency coordinator's responsibilities are more fully spelled out in paragraph [subsection (b)(6) of this section-Section]. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility." in the note appended to corresponding 40 CFR 279.52(b)(5).

- 6) ~~Emergency Procedures~~ ~~procedures~~.
- A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately do the following:
- i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
  - ii) Notify appropriate State or local agencies with designated response roles if their help is needed.
- B) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He or she may do this by observation or review of facility records or manifests and, if necessary, by chemical analyses.
- C) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs

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from water or chemical agents used to control fire and heat-induced explosions).

- D) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, he or she must report his findings as follows:
- i) If his assessment indicated that evacuation of local areas may be advisable, he or she must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and
  - ii) He must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: name and telephone number of reporter; name and address of facility; time and type of incident (e.g., release, fire); name and quantity of materials involved, to the extent known; the extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.
- E) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.
- F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
- G) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

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- H) The emergency coordinator must ensure that the following occur, in the affected areas of the facility:
- i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; ~~and~~
  - ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed; and.
  - iii) The owner or operator must notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) ~~of this Section~~ before operations are resumed in the affected areas of the facility.
- I) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it must submit a written report on the incident to USEPA Region 5. The report must include the following:
- i) The name, address, and telephone number of the owner or operator;
  - ii) The name, address, and telephone number of the facility;
  - iii) The date, time, and type of incident (e.g., fire, explosion);
  - iv) The name and quantity of materials involved;
  - v) The extent of injuries, if any;
  - vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
  - vii) The estimated quantity and disposition of recovered material that resulted from the incident.

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

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**Section 739.154 Used Oil Management**

A used oil processor is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart F. A used oil processor or re-refiner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart F.

- a) Management Units~~units~~. A used oil processor may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of Units~~units~~. The following must be true of containers and aboveground tanks used to store or process used oil at a processing facility:
  - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) The containers may not be leaking (no visible leaks).
- c) Secondary Containment~~containment~~ for Containers~~containers~~. Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
  - 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

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- d) ~~Secondary Containment~~ ~~containment~~ for Existing Aboveground Tanks ~~existing aboveground tanks~~. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) ~~Secondary Containment~~ ~~containment~~ for New Aboveground Tanks ~~new aboveground tanks~~. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the

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containment system from migrating out of the system to the soil, groundwater, or surface water.

- f) Labels:
- 1) Containers and aboveground tanks used to store used oil at processing facilities must be labeled or marked clearly with the words "Used Oil:".
  - 2) Fill pipes used to transfer used oil into underground storage tanks at processing facilities must be labeled or marked clearly with the words "Used Oil:".
- g) Response to ~~Releases~~ releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a processor must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.54(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located:". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located;", the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
  - 2) Contain the released used oil;
  - 3) Properly clean up and manage the released used oil and other materials; and
  - 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- h) Closure:
- 1) Aboveground ~~Tanks~~ tanks. An owner or operator that stores or processes used oil in aboveground tanks must comply with the following requirements:

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- A) At closure of a tank system, the owner or operator must remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter.
  - B) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (h)(1)(A) of this Section, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (35 Ill. Adm. Code 725.410).
- 2) Containers. An owner or operator that stores used oil in containers must comply with the following requirements:
- A) At closure, containers holding used oils or residues of used oil must be removed from the site;
  - B) The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste 35 Ill. Adm. Code 721.

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

**Section 739.156 Tracking**

- a) Acceptance. A used oil processor must keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
  - 1) The name and address of the transporter that delivered the used oil to the processor;
  - 2) The name and address of the generator or processor from whom the used oil was sent for processing;

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- 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the processor;
  - 4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent for processing;
  - 5) The quantity of used oil accepted;
  - 6) The date of acceptance; and
  - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
    - A) Information stating when and where the special waste was generated;
    - B) The classification and quantity of the special waste delivered to the transporter;
    - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
    - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- b) Deliveries. A used oil processor must keep a record of each shipment of used oil that is delivered to another used oil burner, processor, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records of each delivery must include the following information:

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- 1) The name and address of the transporter that delivers the used oil to the burner, processor, or disposal facility;
- 2) The name and address of the burner, processor, or disposal facility that will receive the used oil;
- 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner, processor or disposal facility;
- 4) The USEPA identification number and Illinois special waste identification number of the burner, processor, or disposal facility that will receive the used oil;
- 5) The quantity of used oil shipped;
- 6) The date of shipment; and;
- 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
  - A) Information stating when and where the special waste was generated;
  - B) The classification and quantity of the special waste delivered to the transporter;
  - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
  - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

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- c) Record ~~Retention~~ retention. The records described in subsections (a) and (b) ~~of this Section~~ must be maintained for at least three years.

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

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

**Section 739.160 Applicability**

- a) General. The requirements of this Subpart G apply to used oil burners except as specified in subsections (a)(1) and (a)(2) ~~of this Section~~. A used oil burner is a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a). Facilities burning used oil for energy recovery under the following conditions are not subject to this Subpart G:
- 1) The used oil is burned by the generator in an on-site space heater under the provisions of Section 739.123; or
  - 2) The used oil is burned by a processor for purposes of processing used oil, which is considered burning incidentally to used oil processing.
- b) Other ~~Applicable Provisions~~ applicable provisions. A used oil burner that conducts the following activities is also subject to the indicated requirements of other applicable provisions of this Part; ~~as indicated below~~:
- 1) A burner that generates used oil must also comply with Subpart C ~~of this Part~~;
  - 2) A burner that transports used oil must also comply with Subpart E ~~of this Part~~;
  - 3) Except as provided in Section 739.161(b), a burner that processes or re-refines used oil must also comply with Subpart F ~~of this Part~~;
  - 4) A burner that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and
  - 5) A burner that disposes of used oil must comply with Subpart I ~~of this Part~~.

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- c) Specification ~~Fuel-fuel~~. This Subpart G does not apply to a person burning used oil that meets the used oil fuel specification of Section 739.111, provided that the burner complies with the requirements of Subpart H ~~of this Part~~.

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

**Section 739.161 Restriction on Burning**

- a) Off-specification used oil fuel may only be burned for energy recovery in the following devices:
- 1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;
  - 2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:
    - A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;
    - B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
    - C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123; or
  - 3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724 or 725.
- b) Restrictions:
- 1) With the following exception, a used oil burner may not process used oil unless it also complies with the requirements of Subpart F ~~of this Part~~.
  - 2) A used oil burner may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

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

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**Section 739.163 Rebuttable Presumption for Used Oil**

- a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), a used oil burner must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.
- b) The used oil burner must determine if the used oil contains above or below 1,000 ppm total halogens by the following means:
  - 1) Testing the used oil;
  - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or
  - 3) If the used oil has been received from a processor subject to regulation under Subpart F of this Part, using information provided by the processor.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).
  - 1) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils and fluids are recycled in any other manner, or disposed.
  - 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- d) ~~Record Retention-retention.~~ Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~of this Section~~ must be maintained by the burner for at least three years.

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

**Section 739.164 Used Oil Storage**

A used oil burner is subject to all applicable Spill Prevention, Control and Countermeasures (federal 40 CFR 112) in addition to the requirements of this Subpart G. A used oil burner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart G.

- a) Storage ~~Units~~-units. A used oil burner may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of ~~Units~~-units. The following must be true of containers and aboveground tanks used to store used oil at a burner facility:
  - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) The containers may not be leaking (no visible leaks).
- c) Secondary ~~Containment~~ containment for ~~Containers~~-containers. Containers used to store used oil at a burner facility must be equipped with a secondary containment system.
  - 1) The secondary containment system must consist of the following, at a minimum:
    - A) Dikes, berms, or retaining walls; and
    - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- d) Secondary ~~Containment~~ containment for ~~Existing Aboveground Tanks~~-existing aboveground tanks. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.

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- 1) The secondary containment system must consist of the following, at a minimum:
  - A) Both of the following:
    - i) Dikes, berms, or retaining walls; and
    - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
  - B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) ~~Secondary Containment~~ ~~containment for New Aboveground Tanks~~ ~~new aboveground tanks~~. A new aboveground tank used to store used oil at burner facilities must be equipped with a secondary containment system.
  - 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Labels:
  - 1) A container or aboveground tank used to store used oil at a burner facility must be labeled or marked clearly with the words "Used Oil-".

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- 2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil:".
- g) Response to ~~Releases~~ releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a burner must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.64(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located:". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located;", the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials; and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

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

**Section 739.165 Tracking**

- a) Acceptance. A used oil burner must keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment must include the following information:
  - 1) The name and address of the transporter that delivered the used oil to the burner;

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- 2) The name and address of the generator or processor from whom the used oil was sent to the burner;
  - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the burner;
  - 4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent to the burner;
  - 5) The quantity of used oil accepted;
  - 6) The date of acceptance; and
  - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:
    - A) Information stating when and where the special waste was generated;
    - B) The classification and quantity of the special waste delivered to the transporter;
    - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
    - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- b) Record ~~Retention-retention~~. The records described in subsection (a) ~~of this Section~~ must be maintained for at least three years.

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

**Section 739.166 Notices**

- a) Certification. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor, the burner must provide to the generator, transporter, or processor a one-time written and signed notice certifying the following:
  - 1) That the burner has notified USEPA stating the location and general description of his used oil management activities; and
  - 2) That the burner will burn the used oil only in an industrial furnace or boiler identified in Section 739.161(a).
- b) Certification Retention~~retention~~. The certification described in subsection (a) of ~~this Section~~ must be maintained for three years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor.

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

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

**Section 739.170 Applicability**

- a) Any person that conducts either of the following activities is subject to the requirements of this Subpart H:
  - 1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
  - 2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.
- b) The following persons are not marketers subject to this Subpart H:
  - 1) A used oil generator, or a transporter that transports used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from its facility to a used oil burner. However, a processor that burns some used oil fuel for purposes of processing is considered to be burning incidentally to processing. Thus, generator or

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transporter that directs shipments of off-specification used oil to a processor that incidentally burns used oil is not a marketer subject to this Subpart H;

- 2) A person that directs shipments of on-specification used oil and which is not the first person to claim the oil meets the used oil fuel specifications of Section 739.111.
- c) Any person subject to the requirements of this Subpart H must also comply with one of the following:
  - 1) Subpart C—~~Standards of this Part~~ Standards for Used Oil Generators;
  - 2) Subpart E—~~Standards of this Part~~ Standards for Used Oil Transporters and Transfer Facilities;
  - 3) Subpart F—~~Standards of this Part~~ Standards for Used Oil Processors and Re-refiners; or
  - 4) Subpart G—~~Standards of this Part~~ Standards for Used Oil Burners that Burn Off-Specification Used Oil for Energy Recovery.

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

**Section 739.174 Tracking**

- a) ~~Off-specification used oil delivery~~ Off-Specification Used Oil Delivery. Any used oil fuel marketer that directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
  - 1) The name and address of the transporter that delivers the used oil to the burner;
  - 2) The name and address of the burner that will receive the used oil;
  - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner;
  - 4) The USEPA identification number and Illinois special waste identification number of the burner;
  - 5) The quantity of used oil shipped;

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- 6) The date of shipment; and
  - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:
    - A) Information stating when and where the special waste was generated;
    - B) The classification and quantity of the special waste delivered to the transporter;
    - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
    - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- b) On-Specification Used Oil Delivery~~On-specification used oil delivery~~. A generator, transporter, processor or re-refiner, or burner that first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Section 739.111 must keep a record of each shipment of used oil to the facility to which it delivers the used oil. Records for each shipment must include the following information:
- 1) The name and address of the facility receiving the shipment;
  - 2) The quantity of used oil fuel delivered;
  - 3) The date of shipment or delivery; and

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- 4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Section 739.172(a).
- c) Record Retention ~~retention~~. The records described in subsections (a) and (b) ~~of this Section~~ must be maintained for at least three years.

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

**Section 739.175 Notices**

- a) Certification. Before a used oil generator, transporter, or processor directs the first shipment of off-specification used oil fuel to a burner, it must obtain a one-time written and signed notice from the burner certifying the following:
  - 1) That the burner has notified USEPA stating the location and general description of used oil management activities; and
  - 2) That the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in Section 739.161(a).
- b) Certification Retention ~~retention~~. The certification described in subsection (a) ~~of this Section~~ must be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

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