

ILLINOIS POLLUTION CONTROL BOARD
April 15, 1999

IN THE MATTER OF:)
)
NONHAZARDOUS SPECIAL WASTE) R98-29
HAULING AND THE UNIFORM) (Rulemaking - Land)
PROGRAM: AMENDMENTS TO 35 ILL.)
ADM. CODE 809 (PURSUANT TO)
P.A. 90-219))

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

This matter is before the Board on a May 8, 1998 "Motion for Acceptance" (motion) from the Illinois Environmental Protection Agency (Agency). In the motion, the Agency submitted a proposal requesting several changes to the rules on the transportation of hazardous waste so that Illinois' procedures conform to an emerging national standard. On November 2, 1998, the Agency filed a "Motion to Sever the Docket and Proposed Amendments to Parts 809 and 807" (motion to sever). In the motion to sever, the Agency requested that the Board separate the rules on used oil transportation and used oil management facilities from the rules on hazardous waste transportation. The rules on used oil transportation and used oil management facilities are being addressed in a separate docket, R99-18.

On December 17, 1998, the Board adopted the proposed hazardous waste transportation rules, with technical revisions, for first notice publication in the *Illinois Register* and identified the docket as R98-29. Subsequently, the amendments to Parts 808, 809, and 811 of the Board's rules were published in the *Illinois Register* (21 Ill. Reg. 78 (January 4, 1999)). According to the Illinois Administrative Procedure Act (APA) (5 ILCS 100/1-1 *et seq.* (1996)), the first-notice period ended on February 19, 1999. However, under Section 28.5 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/28.5) the record does not close until 14 days after the availability of hearing transcripts. The transcript from the final hearing in this matter was available on March 5, 1999. Consequently, the record and public comment period closed on March 19, 1999. No public comments were received during the first notice period with the exception of several minor editorial changes suggested by the Joint Committee on Administrative Rules (JCAR).

By today's action, the Board adopts the proposed amendments for second notice, pursuant to the APA. The matter will now be forwarded to JCAR for further consideration.

The Board's responsibility in this matter arises from the Act (415 ILCS 5/1 *et seq.* (1996)). The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois." 415 ILCS 5/5(b) (1996).

STATUTORY/REGULATORY FRAMEWORK

In 1990, Congress amended the Hazardous Materials Transportation Uniform Safety Act and four years later passed the Hazardous Materials Transportation Authorization Act of 1994 (HMTAA). Exh. 1 (Walters) at 1. Congress enacted the legislation in order to address the numerous similar hazardous waste transport regulations at the state level. *Id.* Despite the similarity of the regulations, interstate transporters had to apply for and carry different permits in several states and pay the associated fees in those states. Exh. 1 (Walters) at 1; PC 1 at 1.

The HMTAA called for the creation of a working group to set uniform national standards for the transportation of hazardous waste and to examine state permitting requirements. 49 U.S.C. § 5119(a) (1994). The HMTAA also directed the United States Secretary of Transportation to promulgate regulations to carry out the recommendations of the working group. 49 U.S.C. § 5119(c) (1994). The working group first met in early 1992 and became known as the Alliance for Uniform HazMat Transportation Procedures (Alliance). Exh. 1 (Walters) at 4. The Alliance drafted the uniform standards and submitted a report to the United States Secretary of Transportation in late 1993. Exh. 1 (Walters) at 5.

The Alliance requested that the Federal Highway Administration conduct a two-year pilot project to test the Alliance's recommended uniform standards. Exh. 1 (Walters) at 5. The four pilot states were Minnesota, Nevada, Ohio, and West Virginia. *Id.* Based on the pilot project, the Alliance modified the recommended uniform standards. *Id.*

Even though the federal regulations are not yet in place, the HMTAA preempted the existing Illinois hazardous waste transporter laws in the Act. Exh. 1 (Walters) at 2. The federal preemption nullifies Illinois' old distribution of hazardous waste permitting fees which do not comply with the HMTAA. 49 U.S.C. § 5119(c)(2) (1994); 49 U.S.C. § 5125(g) (1994). In May 1996, Cynthia Hilton, Executive Director of the Association of Waste Hazardous Materials Transporters (AWHMT) informed the Agency about the impending federal preemptive law and persuaded state officials to adopt the federal program in order to avoid a lawsuit. St. of Reas. at 3; Exh. 1 (Walters) at 5.

The Illinois General Assembly passed the enabling legislation (Senate Bill 378) which was signed into law by Governor Jim Edgar. Pub. Act 90-219, eff. July 25, 1997. Public Act 90-219 amends Sections 22, 22.01, and 22.2 of the Act and implements the Uniform State Hazardous Materials Transportation Registration and Permit Program (Uniform Program). 415 ILCS 5/22, 5/22.01, and 5/22.2 (1996). The law also set July 1, 1998, as the implementation date for the Uniform Program. 415 ILCS 5/22.2(l-5)(2) (1996). The AWHMT, the Alliance, the Illinois Trucking Association, Waste Management, and Safety Kleen all supported the legislation. St. of Reas. at 3; Exh. 1 (Walters) at 5-6.

The Agency drafted a proposal for the Illinois Uniform Program and submitted it to the Board on May 8, 1998. See In the Matter of: Nonhazardous Special Waste Hauling and the Uniform Program: 35 Ill. Adm. Code 809 (Pursuant to P.A. 90-219) (May 21, 1998), R98-29, slip op. at 1. The Uniform Program primarily affects Part 809 of the Board's rules, but there are also minor changes to Parts 808, 811, and 855 in order to establish consistency with the revised Part 809. On May 21, 1998, the Board accepted the matter for hearing but ruled

that the amendments to Part 855 of the Illinois Administrative Code must be promulgated by the Agency because Part 855 is an Agency rule. *Id.*

PROCEDURAL HISTORY

Two regular hearings were held in this matter before Board Hearing Officer John Knittle and Board Member Joseph C. Yi. The first hearing was held on July 21, 1998, in Springfield. The Agency, represented by Assistant Counsel Kimberly A. Robinson, presented witnesses David Walters, Acting Manager of the Solid Waste Management Section, and Edwin C. Bakowski, Manager of the Permit Section, who both summarized their respective prefiled testimonies. See Exh. 1. The second hearing was held on July 31, 1998, in Chicago, where Robinson, Walters and Bakowski testified again.¹

Pursuant to Public Act 90-489, effective January 1, 1998, the Board requested that the Department of Commerce and Community Affairs (DCCA) conduct an economic impact study for R98-29. DCCA has 30 to 45 days after such a request to produce a study of the economic impact of the proposed rules. On July 26, 1998, DCCA issued a letter notifying the Board that it would not conduct an economic impact study for docket R98-29 because it lacked the technical and financial resources to conduct any economic studies on rules pending before the Board during the remainder of fiscal year 1999. On February 25, 1999, an economic hearing was held in this matter in Chicago before Board Hearing Officer Joel Sternstein and Board Member Nicholas J. Melas. The purpose of this hearing was to entertain comments regarding DCCA's decision to not conduct an economic impact study for docket R98-29. No comments were received.

DISCUSSION

Changes in Nonhazardous Special Waste Permitting

Under the old system, the Agency issued permits to transporters of "special waste" according to Part 809 of the Board's rules. St. of Reas. at 4-5; 35 Ill. Adm Code 809. Special waste includes hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA) and nonhazardous waste such as polychlorinated biphenyls (PCBs) and asbestos. St. of Reas. at 4; 35 Ill. Adm. Code 722.111; 415 ILCS 5/3.45 (1996).

In its proposal, the Agency requested that the Board bifurcate the regulations for transportation of hazardous and nonhazardous special waste so that Illinois' hazardous waste regulations under the Uniform Program comply with the HMTAA. St. of Reas. at 4-5; Exh. 1 (Walters) at 10. A new Subpart J is proposed for Part 809 for the Uniform Program, while the remainder of Part 809 is modified to allow for the continued permitting of nonhazardous special waste transporters. St. of Reas. at 5.

¹ The transcript of the July 21, 1998, hearing is cited as "Tr.1 at __"; the transcript of the July 31, 1998, hearing is cited as "Tr.2 at __".

The proposed rules provide that the permitting of nonhazardous special waste transporters will be conducted the same way that it was before the Uniform Program with a few exceptions to allow for consistency between the Uniform Program and the existing rules. St. of Reas. at 8. For example, language has been proposed to the rules at Section 809.204(c) so that a nonhazardous special waste transporter is afforded due process if a permit is denied, and the Agency has a procedure to follow at Section 809.204(d) if a nonhazardous special waste permit application is incomplete. *Id.*

Finally, there were two new proposed exemptions from the nonhazardous special waste transport rules at Section 809.211. *Id.* The exemptions avoid duplicate and potentially contradictory transporting requirements for transporters of potentially infectious medical waste and used tires. St. of Reas. at 8-9.

Uniform Program Permitting

Under the old system, the Agency permitted transporters carrying special waste that was generated in or which came through Illinois. Exh. 1 (Walters) at 4. Under the Uniform Program, those transporting hazardous waste in Illinois must have a Uniform Permit issued by the Agency. Exh. 1 (Walters) at 8. Registration of transporters is a base state system. Exh. 1 (Walters) at 2. A transporter applies to its base state for its Uniform Permit, and the base state reviews Uniform Permit applications. Exh. 1 (Walters) at 3. A transporter's base state can be where its principal place of business is located or, if the home state does not participate in the Uniform Program, the base state is where the transporter conducts a plurality of its mileage. Exh. 1 (Walters) at 2.

AWHMT points out that the Uniform Permit application places more emphasis on safety than the Agency's old permit application. PC 1 at 3-4. Specifically, the Uniform Permit application goes beyond the old application by asking transporters about their federal safety rating, previous permit denials, suspensions, and revocations. *Id.*

According to the proposed rules at Sections 809.911 and 809.912, if the Agency approves the application, the Uniform Permit will be valid for three years. Exh. 1 (Walters) at 8. Transporters will have to renew their registration every year. *Id.* If a transporter fails to renew the yearly registration, the Uniform Permit is voided. *Id.*

The Uniform Program allows the Agency to enter into agreements with federal agencies, national repositories, and other participating states in order to issue reciprocal Uniform Permits that allow a transporter to operate in all participating states. 415 ILCS 5/22.2(l-5)(5) (1996); Exh. 1 (Walters) at 3-4. As a result, an interstate transporter need only fill out one permit application, as opposed to filling out numerous permit applications under the old system. The AWHMT notes that elimination of paperwork will be a great benefit to transporters under the Uniform Program. PC 1 at 2.

At the July 31, 1998 hearing, Anand Rao, a member of the Board's Technical Unit, asked the Agency representatives to clarify deadlines for Agency approval of Uniform Permit applications. Tr.2 at 13-15. The Agency proposed language which is included in the

proposed Board rules at Sections 809.911 and 809.912. PC 2 at Errata Sheet 1-2. If the Uniform Permit application is incomplete, the Agency must notify the applicant within 90 days of receipt. *Id.* If the Agency cannot take final action within 90 days of filing a complete application, then the Agency must issue the applicant a Letter of Filing indicating compliance with the Uniform Program. *Id.* If the Agency is still unable to take final action 180 days after issuing of a Letter of Filing, the permit is deemed granted. *Id.* This same process applies to the application for the yearly registration as well. *Id.*

As of mid-July 1998, the Agency had already issued 12 to 15 of the Uniform Permits to companies whose special waste hauling permits expired July 1, 1998, or after. Tr.1 at 10. Mr. Walters reported that there had been few problems with the Uniform Permit process. *Id.*

Uniform Program Fees

The transporter's base state is the one responsible for collecting the fees and distributing percentages of those fees to other states participating in the program. Exh. 1 (Walters) at 2. Proposed Section 809.913 provides that the annual fee for the Uniform Permit is \$250 for any company that designates Illinois as its base state. 415 ILCS 5/22.2(1-5)(3) (1996); Exh. 1 (Walters) at 3; Tr.1 at 9. The fee is based on the costs of processing the permit. PC 1 at 2.

Section 809.914 of the proposed rules sets a \$20 annual registration fee for each vehicle owned by a company subject to a Uniform Permit. 415 ILCS 5/22.2(1-5)(3) (1996); Exh. 1 (Walters) at 3. The Agency will apportion the annual vehicle fee among Illinois and other states based on percentage of miles traveled in those states and percentage of the transporter's total activity that involves hazardous waste. *Id.* Proposed Section 809.914 dictates that annual registrations must reflect the fees for apportioned miles for each participating state. Exh. 1 (Walters) at 8. It also states that if Illinois is the base state for a transporter, the Agency will collect vehicle registration fees and distribute those fees to other states. Exh. 1 (Walters) at 4, 9. When another participating state is the base state for a transporter, that state will send the appropriate vehicle fees to Illinois. Exh. 1 (Walters) at 4.

AWHMT notes that the fee formula ensures that transporters pay fair shares for using state services. PC 1 at 3.

Audits and Enforcement

Audit and enforcement procedures are located in proposed Section 809.920. The Uniform Program mandates that the Agency conduct audits to ensure that transporters are accurately reporting their activity. St. of Reas. at 7. The Agency may use its existing authority under the Act to punish transporters who do not comply. *Id.* The Agency may deny, suspend, or revoke a transporter's Uniform Permit in every state by following a national standard (State Program Administrator's Manual from the National Governor's Association) which is incorporated into the Board's rules by reference in Section 809.104. *Id.*

AWHMT points out that under the old system, the Agency would issue permits to out-of-state transporters but had no authority to conduct on-site audits of those transporters. PC 1 at 3. Under the Uniform Program, the Agency can rely on an auditing system that will regulate out-of-state transporters. *Id.*

Transition Period

Section 809.919 of the proposed rules provides for a transition period. Exh. 1 (Walters) at 9. Hazardous waste transporters who have an existing Special Waste Hauling Permit will be allowed to transport hazardous waste in Illinois until June 30, 1999, or until their existing permit expires. *Id.* Hazardous Waste transporters will then have to apply for a Uniform Permit. As of July 1, 1998, Uniform Permits issued by other states are valid for transporting hazardous waste in Illinois. *Id.*

Incorporations by Reference

A new Section 809.104 is proposed in order to incorporate by reference sections from the Code of Federal Regulations (C.F.R.) and documents published by the Alliance and the National Governors' Association. St. of Reas. at 6. The C.F.R. sections and the documents contain instructions, procedures, and background information for both regulators and the regulated community. *Id.* The C.F.R. sections and documents are available for inspection at the Clerk's Office of the Pollution Control Board.

Public Records

At the request of AWHMT, the Section 809.105 of the proposed rules addresses the confidentiality of the information that is submitted to regulators. St. of Reas. at 6; Exh. 1 (Walters) at 7. In Illinois, the new confidentiality regulations will apply to the Uniform Program and special nonhazardous waste transporters. Information submitted to the Agency or the Board for purposes of permitting or registration can be withheld from the public if the Illinois Freedom of Information Act (5 ILCS 14 (1996)), Board rules (35 Ill. Adm. Code 120), or Agency rules allow. St. of Reas. at 6.

CONCLUSION

The Board finds that the proposed rules meet the requirements of the HMTAA and that the Uniform Program is designed so that the new rules on the transportation of hazardous waste in the Uniform Program complement Illinois' existing rules on the transportation of special nonhazardous waste. Pursuant to Sections 27 and 28.5 of the Act (415 ILCS 5/27, 28.5 (1996)), the Board finds that the proposed rules are technically feasible and economically reasonable. The record justifies adopting the proposed rules for second notice with minor editorial changes as suggested by JCAR during the first-notice period.

ORDER

Within the text of the order, deletions from the first-notice opinion and order are shown via strikeouts, and additions are underlined. Deletions pursuant to the second-notice process are shown via strikeouts and double underlines, while additions pursuant to the second-notice process are shown via double underlines.

The Board proposes for second notice the following amendments to 35 Ill. Adm. Code 808, 809, and 811. The Clerk of the Board is directed to file these proposed amendments with the Secretary of State.

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

PART 808
 SPECIAL WASTE CLASSIFICATIONS

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SUBPART B: CLASSES OF SPECIAL WASTE

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808.241	Default Classification of Special Wastes
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808.243	Wastes Categorized by Source
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SUBPART C: CRITERIA AND DATA REQUIREMENTS

Section	
808.300	Introduction
808.301	Degree of Hazard Determination by Computer
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SUBPART D: REQUEST FOR WASTE CLASSIFICATION

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808.401	Application Forms
808.402	Application for Waste Classification
808.410	Physical and Chemical Analysis
808.411	Significant Trace Constituents
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808.413	Wastestream Description
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SUBPART E: REVIEW OF CLASSIFICATION REQUESTS

Section	
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808.502	Completeness
808.503	Standard for Classification

SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS

Section	
808.520	Time for Agency Action
808.521	Conditions of Wastestream Classification
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SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT

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808.541	Request for Modification
808.542	Appeal
808.543	Effect of Classification
808.544	Enforcement

808.545 Modification

SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES

Section

808.600 Introduction

Appendix A Assignment Of Special Waste To Classes

Appendix B Toxicity Hazard

AUTHORITY: Implementing Sections 21, 22, 22.01 and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9]. (~~Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1021, 1022, 1022.01, 1022.9 and 1027.~~)

SOURCE: Adopted in R89-13A at 14 Ill. Reg. 14043, effective August 15, 1990; amended in R98-29 at 23 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 808.121 Generator Obligations

- a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

- b) No person shall deliver special waste to a ~~transporter~~hauler unless the waste is accompanied by a manifest as specified in Section 808.122, and the ~~transporter~~hauler has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:
- 1) The person is subject to the small quantity generator exemption of Section 808.123.
 - 2) The ~~transporter~~hauler and waste are subject to a ~~transporter~~hauler exemption under 35 Ill. Adm. Code 809.211.
 - 3) The Agency has determined pursuant to this Part that the waste is not a special waste.
 - 4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.

- c) *No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:* ~~NO PERSON SHALL CAUSE, THREATEN OR ALLOW THE TREATMENT, STORAGE OR DISPOSAL OF SPECIAL WASTE IN ILLINOIS EXCEPT:~~
- 1) *At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807 (Sections 21(d) and (e) of the Act); or* ~~AT A FACILITY PERMITTED OR OTHERWISE AUTHORIZED TO MANAGE THE SPECIAL WASTE PURSUANT TO 35 ILL. ADM. CODE 703 or 807~~
 - 2) *At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act (Section 21(d) of the Act).* ~~AT A FACILITY OWNED AND OPERATED BY SUCH PERSON AND SUBJECT TO THE ON-SITE DISPOSAL EXEMPTION OF SECTION 21(d) OF THE ACT~~
- d) No person shall deliver special waste to a transporter~~hauler~~ or a permitted facility without a supplemental wastestream permit.
- e) No person shall deliver to a transporter~~hauler~~ or permitted facility special waste with a wastestream identification number unless the waste conforms with the wastestream description in the wastestream classification determination.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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

PART 809

NONHAZARDOUS SPECIAL WASTE HAULING AND THE UNIFORM PROGRAM

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809.101	Authority, Policy and Purposes
809.102	Severability
809.103	Definitions
<u>809.104</u>	<u>Incorporations by Reference</u>
<u>809.105</u>	<u>Public Records</u>

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section	
809.201	<u>Nonhazardous</u> Special Waste Hauling Permits-General
809.202	Applications for <u>Nonhazardous</u> Special Waste Hauling Permit-Contents
809.203	Applications for <u>Nonhazardous</u> Special Waste Hauling Permit-Signatures and Authorization
809.204	Applications for <u>Nonhazardous</u> Special Waste Hauling Permit-Filing and Final Action by the Agency
809.205	<u>Nonhazardous</u> Special Waste Hauling Permit Conditions
809.206	<u>Nonhazardous</u> Special Waste Hauling Permit Revision
809.207	Transfer of <u>Nonhazardous</u> Special Waste Hauling Permits
809.208	<u>Nonhazardous</u> Special Waste Hauling Permit Revocation
809.209	Permit Defense
809.210	General Exemption from <u>Nonhazardous</u> Special Waste Hauling Permit Requirements
809.211	Exemptions for <u>Nonhazardous</u> Special Waste <u>Transporters</u> Haulers
<u>809.212</u>	<u>Duration of Nonhazardous Special Waste Hauling Permits</u>

SUBPART C: DELIVERY AND ACCEPTANCE

Section	
809.301	Requirements for Delivery of <u>Nonhazardous</u> Special or <u>Hazardous</u> Waste to <u>Transporters</u> Haulers
809.302	Requirements for Acceptance of <u>Nonhazardous</u> Special or <u>Hazardous</u> Waste from <u>Transporters</u> Haulers

SUBPART D: PERMIT AVAILABILITY ~~VEHICLE NUMBERS~~ AND SYMBOLS

Section	
809.401	<u>Permit Availability</u> Vehicle Numbers
809.402	<u>Nonhazardous</u> Special Waste Symbols

SUBPART E: MANIFESTS, RECORDS AND REPORTING

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

SUBPART F: DURATION OF PERMITS AND TANK NUMBERS

Section
809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section
809.701 General Provision

SUBPART H: EFFECTIVE DATES

Section
809.801 Compliance Date
809.802 Exceptions (Repealed)

SUBPART I: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE

Section
809.901 Definitions (Repealed)
809.902 Disposal Methods (Repealed)
809.903 Rendering Innocuous by Sterilization (Repealed)
809.904 Rendering Innocuous by Incineration (Repealed)
809.905 Recordkeeping Requirements for Generators (Repealed)
809.906 Defense to Enforcement Action (Repealed)

SUBPART J: UNIFORM PROGRAM

Section
809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program
809.911 Application for a Uniform Permit
809.912 Application for Uniform Registration
809.913 Payment of Processing and Audit Fees
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809.916 Previously Permitted Transporters
809.917 Uniform Registration and Uniform Permit Conditions
809.918 Uniform Registration and Uniform Permit Revision
809.919 Transfer of Uniform Registration and Uniform Permits
809.920 Audits and Uniform Registration and Uniform Permit Revocation
809.921 Permit No Defense

Appendix A Old Rule Numbers Referenced (Repealed)

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

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

SUBPART A: GENERAL PROVISIONS

Section 809.101 Authority, Policy and Purposes

Pursuant to the authority contained in Sections 5, 10, 13, 21, and 22, 22.01, and 22.2 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22, and 22.2](~~Ill. Rev. Stat. 1981, ch 111 1/2, pars. 1005, 1010, 1013 and 1022~~), and consistent with the policy and purposes expressed in Section 20 [415 ILCS 5/20](~~Ill. Rev. Stat. 1981, ch. 111 1/2, par. 1020~~) thereof, the Board adopts this Part the following Rules and Regulations. This Part prescribes These rules prescribe the procedures for the Uniform Hazardous Materials Transportation and Registration Program and for the issuance of permits to nonhazardous special waste transporters haulers; for the inspection and numbering of vehicles; and for proper hauling of special wastes to approved disposal, storage and treatment sites. It is the purpose of this Part these Regulations to control only wastes as defined herein.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.102 Severability

If any provision of this Part these rules or regulations is adjudged invalid, or if the application thereof to any person or in any circumstance is adjudged invalid, such invalidity shall not affect the validity of this Part as a whole or of any Subpart, Section, subsection, sentence, or clause Section, Subsection, Sentence or Clause thereof not adjudged invalid.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.103 Definitions

"Act" means the Illinois Environmental Protection Act [415 ILCS 5](~~Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001, et seq.~~).

"Agency" means the Illinois Environmental Protection Agency.

"Base state" means the state in which a hazardous waste transporter must obtain a uniform registration, if required by the base state, and uniform permit.

"Board" means the Illinois Pollution Control Board.

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

~~"DISPOSAL" MEANS THE DISCHARGE, DEPOSIT, INJECTION, DUMPING, SPILLING, LEAKING, OR PLACING OF ANY WASTE OR SPECIAL WASTE INTO OR ON ANY LAND OR WATER SO THAT SUCH WASTE OR SPECIAL WASTE OR ANY CONSTITUENT THEREOF MAY ENTER THE ENVIRONMENT OR BE EMITTED INTO THE AIR OR DISCHARGED INTO ANY WATERS, INCLUDING GROUND WATERS.~~

"Garbage" means the waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage and sale of produce. (Section 3.11 of the Act.)(See "Waste.") ~~"GARBAGE" MEANS THE WASTE RESULTING FROM THE HANDLING, PROCESSING, PREPARATION, COOKING, AND CONSUMPTION OF FOOD, AND WASTES FROM THE HANDLING, PROCESSING, STORAGE AND SALE OF PRODUCE.~~

"Hazardous waste" means a waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential threat to human health or to the environment when improperly treated, stored, transported or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or pursuant to agency guidelines consistent with the requirements of the Act and Board regulations. ~~"HAZARDOUS WASTE" MEANS A WASTE, OR COMBINATION OF WASTES, WHICH BECAUSE~~

~~OF QUANTITY, CONCENTRATION, OR PHYSICAL, CHEMICAL, OR INFECTIOUS CHARACTERISTICS MAY CAUSE OR SIGNIFICANTLY CONTRIBUTE TO AN INCREASE IN MORTALITY OR AN INCREASE IN SERIOUS, IRREVERSIBLE, OR INCAPACITATING REVERSIBLE, ILLNESS; OR POSE A SUBSTANTIAL PRESENT OR POTENTIAL THREAT TO HUMAN HEALTH OR TO THE ENVIRONMENT WHEN IMPROPERLY TREATED, STORED, TRANSPORTED OR DISPOSED OF, OR OTHERWISE MANAGED, AND WHICH HAS BEEN IDENTIFIED, BY CHARACTERISTICS OR LISTING, AS HAZARDOUS PURSUANT TO SECTION 3001 OF THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (42 U.S.C. 6901 ET SEQ.) OR PURSUANT TO AGENCY GUIDELINES CONSISTENT WITH THE REQUIREMENTS OF THE ACT AND BOARD REGULATIONS.~~

Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. (Section 3.15 of the Act.)

"Hazardous waste transporter" means any person who transports hazardous waste as defined in Section 3.15 of the Act.

"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means.

"Industrial process waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. (Section 3.17 of the Act.)

~~"INDUSTRIAL PROCESS WASTE" MEANS ANY LIQUID, SOLID, SEMI SOLID OR GASEOUS WASTE, GENERATED AS A DIRECT OR INDIRECT RESULT OF THE MANUFACTURE OF A PRODUCT OR THE PERFORMANCE OF A SERVICE, WHICH POSES A PRESENT OR POTENTIAL THREAT TO HUMAN HEALTH OR TO THE ENVIRONMENT OR WITH INHERENT PROPERTIES WHICH MAKE THE DISPOSAL OF SUCH WASTE IN A LANDFILL DIFFICULT TO MANAGE BY NORMAL MEANS.~~

~~"INDUSTRIAL PROCESS WASTE" INCLUDES BUT IS NOT LIMITED TO SPENT PICKLING LIQUORS, CUTTING OILS, CHEMICAL~~

~~CATALYSTS, DISTILLATION BOTTOMS, ETCHING ACIDS, EQUIPMENT CLEANINGS, PAINT SLUDGES, INCINERATOR ASHES, CORE SANDS, METALLIC DUST SWEEPINGS, ASBESTOS DUST, HOSPITAL PATHOLOGICAL WASTES AND OFF-SPECIFICATION, CONTAMINATED OR RECALLED WHOLESALE OR RETAIL PRODUCTS. SPECIFICALLY EXCLUDED ARE UNCONTAMINATED PACKAGING MATERIALS, UNCONTAMINATED MACHINERY COMPONENTS, GENERAL HOUSEHOLD WASTE, LANDSCAPE WASTE AND CONSTRUCTION OR DEMOLITION DEBRIS.~~

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

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

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

"Nonhazardous special waste transporter" means any person who transports nonhazardous special waste.

"Off-site" means any site that is not "on-site".

"On-site" means (for the purpose of transporting hazardous waste) on the same or geographically contiguous property that may be divided by public or private right(s)-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the right(s)-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way that the person controls, and to which the public does not have access, is also considered on-site property.

"Participating state" means a state that has elected to participate in the uniform program and has entered into a reciprocal agreement.

"Permitted disposal site" means a sanitary landfill or other type of disposal site, including but not limited to a deep well, a pit, a pond, a lagoon or an

impoundment which has a current, valid operating permit issued by the Agency ~~agency under the Subpart B of this Part~~ and a supplemental permit issued by the Agency ~~under the Subpart B of this Part~~ specifically permitting the site to accept a special waste tendered for disposal.

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

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

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assignee. (Section 3.26 of the Act.) ~~"PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CO PARTNERSHIP, FIRM, COMPANY, CORPORATION, ASSOCIATION, JOINT STOCK COMPANY, TRUST, ESTATE, POLITICAL SUBDIVISION, STATE AGENCY, OR ANY OTHER LEGAL ENTITY OR THEIR LEGAL REPRESENTATIVE, AGENT OR ASSIGNEE.~~

"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, scrubber sludges and chemical spill cleanings. (Section 3.27 of the Act.) ~~"POLLUTION CONTROL WASTE" MEANS ANY LIQUID, SOLID, SEMI SOLID OR GASEOUS WASTE GENERATED AS A DIRECT OR INDIRECT RESULT OF THE REMOVAL OF CONTAMINANTS FROM THE AIR, WATER OR LAND, AND WHICH POSE A PRESENT OR POTENTIAL THREAT TO HUMAN HEALTH OR TO THE ENVIRONMENT OR WITH INHERENT PROPERTIES WHICH MAKE THE DISPOSAL OF SUCH WASTE IN A LANDFILL DIFFICULT TO MANAGE BY NORMAL MEANS. "POLLUTION CONTROL WASTE" INCLUDES BUT IS NOT LIMITED~~

~~TO WATER AND WASTEWATER TREATMENT PLANT SLUDGES, BAGHOUSE DUSTS, SCRUBBER SLUDGES AND CHEMICAL SPILL CLEANINGS.~~

"Principal place of business" means the state in which a person owning vehicles used for transporting hazardous waste maintains its central records or majority of its records relating to the transportation of hazardous materials; or the state in which the person owning vehicles used for transporting hazardous waste has the plurality of its mileage.

"Reciprocal agreement" means an agreement between Illinois and another state to participate in the Uniform Program.

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

"Refuse" means any garbage or other discarded materials, with the exception of radioactive materials discarded in accordance with the provisions of the Radiation Protection Act [420 ILCS 40] ~~(Ill. Rev. Stat. 1989, ch. 111 1/2, par. 211 et seq.)~~ and Radioactive Waste Storage Act ~~"AN ACT in relation to the concentration and storage of radioactive waste" [420 ILCS 35/1] (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 230.1 et seq.)~~ as now or hereafter amended. (See "Waste.")

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

"Site" means any location, place or tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder. (Section 3.43 of the Act.) ~~"SITE" MEANS ANY LOCATION, PLACE OR TRACT OF LAND AND FACILITIES USED FOR COLLECTION, STORAGE, DISPOSAL OR TREATMENT OF SPECIAL WASTE.~~

"Solid waste." (see "Waste.")

"Special waste" means any of the following: ~~is as defined in 35 Ill. Adm. Code 808.110. Special waste may be either "Class A" or "Class B," pursuant to 35 Ill. Adm. Code 808.245.~~

(a) Potentially infectious medical waste;

(b) Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 Ill. Adm. Code Section 722.111 of Title 35 of the Illinois Administrative Code, including a

residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with 35 Ill. Adm. Code Section 726.212 of Title 35 of the Illinois Administrative Code and proven to be nonhazardous;

- (c) Industrial process waste or pollution control waste, except:
- (1) Any such waste certified by its generator, pursuant to Section 22.48 of this Act, not to be any of the following:
- (A) A liquid, as determined using the paint filter test set forth in subdivision (3)(a) of subsection (m) of Section 811.107 of Title 35 of the Illinois Administrative Code;
- (B) Regulated asbestos-containing waste materials, as defined under the National Emission Standards for Hazardous Air Pollutants in 40 CFR Section 61.141;
- (C) Polychlorinated biphenyls (PCB-s) regulated pursuant to 40 CFR Part 761;
- (D) An industrial process waste or pollution control waste subject to the waste analysis and recordkeeping requirements of Section 35 Ill. Adm. Code 728.107 of Title 35 of the Illinois Administrative Code under the land disposal restrictions of Part 35 Ill. Adm. Code 728 of Title 35 of the Illinois Administrative Code; and
- (E) A waste material generated by processing recyclable metals by shredding and required to be managed as a special waste under Section 22.29 of this Act;
- (2) Any empty portable device or container, including but not limited to a drum, in which a special waste has been stored, transported, treated, disposed of, or otherwise handled, provided that the generator has certified that the device or container is empty and does not contain a liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107 (m)(3)(a) pursuant to item (a) of subdivision (1) of this subsection. For purposes of this subdivision, "empty portable device or container" means a device or container in which removal of special waste, except for a residue that shall not exceed one inch in thickness, has been accomplished by a practice commonly employed to remove materials of that type. An inner liner used to prevent contact between the special waste

and the container shall be removed and managed as a special waste; or

(3) As may otherwise be determined under Section 22.9 of this Act. (Section 3.45 of the Act.)

"Special waste ~~transporter-hauler~~" means any person who transports special waste (as defined in Section 3.45 of the Act) from any location.

"Spill" means any accidental discharge of special waste.

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

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

"Treatment" means any method, technique or process, including neutralization designed to change the physical, chemical or biological character or composition of any special waste so as to neutralize that waste or so as to render that waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of special waste to render it less dangerous or nonhazardous. "Treatment" also includes reclamation, re-use and recycling of special waste. (Section 3.49 of the Act.) ~~"TREATMENT" MEANS ANY METHOD, TECHNIQUE OR PROCESS INCLUDING NEUTRALIZATION DESIGNED TO CHANGE THE PHYSICAL, CHEMICAL OR BIOLOGICAL CHARACTER OR COMPOSITION OF ANY SPECIAL WASTE SO AS TO NEUTRALIZE THAT WASTE OR SO AS TO RENDER THAT WASTE NONHAZARDOUS, SAFER FOR TRANSPORT, AMENABLE FOR RECOVERY, AMENABLE FOR STORAGE OR REDUCED IN VOLUME. "TREATMENT" INCLUDES ANY ACTIVITY OR PROCESSING DESIGNED TO CHANGE THE PHYSICAL FORM OR CHEMICAL COMPOSITION OF SPECIAL WASTE TO RENDER IT LESS DANGEROUS OR NONHAZARDOUS.~~

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

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

"Uniform application" means the uniform registration and uniform permit

application form established under the Uniform Program and provided by the Agency.

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

"Uniform Program" means the program established pursuant to the directive of the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. §§ 1 et seq.) and the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C.S. §§ 5101 et seq.) and implemented pursuant to the Final Report: Uniform Program Pilot Project and the State Program Administrator's Manual, Uniform Program, Alliance for Uniform HazMat Transportation Procedures, incorporated by reference in Section 809.104.

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

"Vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, designed or used for the transportation of hazardous waste device used to transport special waste in bulk or in packages, tanks or other containers (Derived from Section 22.2 (1-5)(l) of the Act.)

"Waste" means any garbage sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to The Federal Surface Mining Control and Reclamation Act of 1977 P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. (Section 3.53 of the Act.) "WASTE" MEANS ANY GARBAGE, REFUSE, SLUDGE FROM A WASTE TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT, OR AIR POLLUTION CONTROL FACILITY OR OTHER DISCARDED MATERIAL, INCLUDING SOLID, LIQUID, SEMI SOLID, OR CONTAINED GASEOUS MATERIAL RESULTING FROM INDUSTRIAL, COMMERCIAL, MINING AND AGRICULTURAL OPERATIONS, AND FROM COMMUNITY ACTIVITIES. "WASTE" AS HERE DEFINED DOES NOT INCLUDE SOLID OR DISSOLVED MATERIAL IN

~~DOMESTIC SEWAGE, OR SOLID OR DISSOLVED MATERIAL IN IRRIGATION RETURN FLOWS, OR IN INDUSTRIAL DISCHARGES WHICH ARE POINT SOURCES SUBJECT TO PERMITS UNDER SECTION 402 OF THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251 et seq.); OR SOURCE, SPECIAL NUCLEAR, OR BYPRODUCT MATERIALS AS DEFINED BY THE ATOMIC ENERGY ACT OF 1954 (42 U.S.C. 2011 ET SEQ.); OR RADIOACTIVE MATERIALS DISCARDED IN ACCORDANCE WITH THE PROVISIONS OF "AN ACT" in relation to personnel radiation monitoring" (Ill. Rev. Stat. 1989, ch. 111 1/2, Par. 230.1 et seq.) AND AS AUTHORIZED BY REGULATIONS PROMULGATED PURSUANT TO THE "RADIATION PROTECTION ACT," (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 211 et seq.) AS NOW OR HEREAFTER AMENDED. "Waste" as here defined is intended to consistent with the definition of "solid waste" set forth in Section 1004(27) of Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(27)~~

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.104 Incorporations by Reference

The Board incorporates the following material by reference:

- a) CFR (Code of Federal Regulations). A copy is available from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402 (202) 783-3238.
- | | |
|-----------------------|---------------|
| <u>49 CFR 171</u> | <u>(1996)</u> |
| <u>49 CFR 172</u> | <u>(1996)</u> |
| <u>49 CFR 177</u> | <u>(1996)</u> |
| <u>49 CFR 178</u> | <u>(1996)</u> |
| <u>49 CFR 180</u> | <u>(1996)</u> |
| <u>49 CFR 383</u> | <u>(1996)</u> |
| <u>49 CFR 387</u> | <u>(1996)</u> |
| <u>49 CFR 390-397</u> | <u>(1996)</u> |
- b) The Report of the Alliance for Uniform HazMat Transportation Procedures, November 17, 1993. A copy is available from the U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590.
- c) The Final Report: Uniform Program Pilot Project, March 15, 1996. A copy is available from the U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 or on the internet at <http://www.fhwa.dot.gov/omc/alliance.html>.

- d) State Program Administrator's Manual, Uniform Program, Alliance for Uniform HazMat Transportation Procedures, revised version, September 10, 1997. A copy is available from the National Governors' Association, 444 North Capitol Street, Suite 267, Washington, D.C. 20001 or the National Conference of State Legislatures, Attn: Alliance Project Manager, 1560 Broadway, Suite 700, Denver, CO 80202.
- e) This Section incorporates no later editions or amendments.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.105 Public Records

Information submitted to the Agency or Board pursuant to this Part ~~these regulations~~ will be withheld from or released to the public in accordance with the following:

- a) The Illinois Freedom of Information Act ~~(5 ILCS 140)~~;
- b) 35 Ill. Adm. Code 120; and
- c) Agency rules implementing the Illinois Freedom of Information Act.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section 809.201 Nonhazardous Special Waste Hauling Permits-General

No person ~~may shall~~ haul or otherwise transport any nonhazardous special waste generated within Illinois or any nonhazardous special waste to be disposed of, stored, or treated within Illinois without a current, valid nonhazardous special waste hauling permit issued by the Agency in accordance with the requirements of this Subpart unless the transporter participates in the Uniform Program or hauler is exempt from the nonhazardous special waste hauling permit requirements under this Subpart.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.202 Applications for Nonhazardous Special Waste Hauling Permit-Contents

Applications for nonhazardous special waste hauling permits shall be made on application forms prescribed or provided by the Agency, which, at as-a minimum, shall require the following information:

- a) Name, address, telephone number and location of the nonhazardous special waste hauling vehicle owner and operator applying for the permit;-

- b) A description of ~~the service to be provided, including~~ the number and types of nonhazardous special waste hauling vehicles and tanks to be used;
- c) An agreement by the nonhazardous special waste hauling vehicle owner and the ~~that operator identified in Section~~ Subsection 809.202(a) that;
- 1) Nonhazardous special ~~Special~~-waste loading, hauling and unloading will be conducted in compliance with all applicable State ~~state~~ and federal laws and regulations;
 - 2) All nonhazardous special waste hauling vehicles and tanks used in nonhazardous special waste hauling will be clean and in good repair at all times when so employed;
 - 3) All nonhazardous special waste hauling vehicles, tanks and associated piping, valving, etc., will be constructed and maintained to prevent leakage or spillage, and shall be cleanable;
 - 4) No waste may ~~shall~~ be mixed with other wastes in one tank or on one nonhazardous special waste hauling vehicle if such mixture results in a hazardous combination likely to cause explosion, fire or release of a dangerous or toxic gas or in violation of any applicable State ~~state~~ or federal law or ~~and~~ regulation;
 - 5) The nonhazardous special waste hauling equipment and procedures to be used shall be proper for the permitted service, be safe for the transporters-haulers, handlers, and others, and meet the requirements of all other applicable State ~~state~~ and federal laws and regulations; and
- d) The application may require additional information deemed necessary by the Agency consistent with the requirements of the Act and Board regulations, and filed with the Administrative Code Unit of the Office of the Secretary of State pursuant to "Illinois Administrative Procedure Act," (Ill. Rev. Stat. 1981, ch. 127, par. 1001 et seq).

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.203 Applications for Nonhazardous Special Waste Hauling Permit-Signatures and Authorization

All nonhazardous special waste hauling permit applications shall be signed by the owner and operator of the nonhazardous special waste hauling vehicle; or, in the name of the owner and operator, by the owner's or ~~and~~ operator's duly authorized agent when accompanied by evidence of authority to sign the application.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.204 Applications for Nonhazardous Special Waste Hauling Permit-Filing and Final Action by the Agency

- a) An application for nonhazardous special waste hauling permit is considered ~~shall be deemed to be filed~~ on the date ~~of initial receipt by the Agency receives~~ of a properly completed application on the form prescribed or provided by the Agency and with correct fees.
- b) If the Agency fails to take final action (which includes granting or denying the nonhazardous special waste hauling permit as requested, or by granting the nonhazardous special waste hauling permit with conditions) within 90 days ~~after from the filing of~~ the date the completed application is filed, the applicant may deem the nonhazardous special waste hauling permit granted for a period of one calendar year commencing on the 91st day after the application was filed.
- c) The Agency will ~~shall~~ send all denials ~~notices of final action~~ by U.S. Registered or Certified Mail, Return Receipt Requested. All other final Agency decisions may go by regular U.S. mail. The Agency will ~~shall~~ be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days of the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.
- d) The Agency will ~~shall~~ require the application to be complete. If incomplete, the application will be returned, and the transporter will be required to resubmit a complete application. The application must be and consistent with the provisions of the Act and Board regulations. The Agency and may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application. If the application is complete and the granting it thereof will not violate cause a violation of the Act or Board regulations, the Agency will ~~shall~~ grant the permit.
- e) When an application is denied because it fails to comply with the Act or Board regulations, any fees submitted with the application will be non-refundable. Any subsequent re-filing of the application will be considered a new application for which an application fee must be included in accordance with Section 22.2 of the Act.
- f) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and

returned to the Agency within 30 days of the initial date-stamped rejection.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.205 Nonhazardous Special Waste Hauling Permit Conditions

- a) In granting nonhazardous special waste hauling permits ~~hereunder~~, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and the Board regulations.
- b) The applicant may deem any conditions imposed by the Agency as a denial of the nonhazardous special waste hauling permit for purposes of review pursuant to Section 40 of the Act.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.206 Nonhazardous Special Waste Hauling Permit Revision

A nonhazardous special waste hauling permit will be issued hereunder ~~is automatically~~ modified to include any relevant change in the Act or Board regulations. The Agency will ~~shall~~ revise any nonhazardous special waste hauling permit issued by the Agency under this Part to make the permit compatible with any such relevant changes and so notify the permittee in writing. Failure of the Agency to issue a revised permit shall not excuse the permittee from compliance with any such change.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.207 Transfer of Nonhazardous Special Waste Hauling Permits

No nonhazardous special waste hauling permit is transferable from one person to another. ~~—A special waste hauling permit is personal to the persons named in the special waste hauling permit.~~

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.208 Nonhazardous Special Waste Hauling Permit Revocation

Violation of any nonhazardous special waste hauling permit conditions or failure to comply with any provisions of the Act or with any Board regulation will ~~shall~~ be grounds for sanctions as provided in the Act, including revocation of the permit as therein provided.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.209 Permit No Defense

The existence of a nonhazardous special waste hauling permit under ~~this Part~~ these rules does ~~shall~~ not provide the permittee with a defense to a violation of the Act or Board regulations, except for hauling nonhazardous special waste without a nonhazardous special waste hauling permit.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.210 General Exemption from Nonhazardous Special Hauling Permit Requirements

Any person who generates a total quantity of nonhazardous special waste 100 kilograms (220 pounds) ~~220 pounds (100 kilograms)~~ or less in any calendar month for disposal, storage or treatment within Illinois is exempt from the permit requirements of this Subpart and from the manifest provisions in Subpart E of this Part. This exemption shall not constitute a defense to a violation of any provision of the Act or any applicable disposal, storage or treatment requirement of 35 Ill. Adm. Code 807.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.211 Exemptions for Nonhazardous Special Waste Transporters Haulers

The following persons need not obtain a nonhazardous special waste hauling permit ~~nor~~ or carry a manifest if they haul only the waste indicated:

- a) Any person licensed in accordance with the Private Sewage Disposal Licensing Act [225 ILCS 225] ~~(Ill. Rev. Stat., 1989 ch. 111 1/2 par. 116.301 et seq.)~~ and who hauls only septic tank pumpings.
- b) Any person who hauls only livestock waste intended for land application pursuant to 35 Ill. Adm. Code 560.
- c) Transporters Haulers of municipal water or wastewater treatment plant sludge that which is to be applied to land and that which is regulated under a sludge management scheme approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- d) Any person licensed in accordance with "An Act in relation to the Disposal Illinois Dead Animal Disposal Act of Dead Animals" [225 ILCS 610] ~~(Ill. Rev. Stat. 1989, ch. 8, par. 149.1 e seq.)~~ and who hauls only grease, meat packing scraps, dead animals and parts of animals for delivery to a renderer.

- e) Any person operating under rules and regulations adopted pursuant to "An Act in relation to Oil, Gas, Coal and Other Surface and Underground Resources" [225 ILCS 725] (~~Ill. Rev. Stat. 1989, ch. 96 1/2, par. 5401 et seq.~~) and who hauls only oil and gas extraction wastes as defined in that Act.
- f) Any person who hauls only radioactive wastes as defined by the Radiation Protection Act [420 ILCS 40] (~~Ill. Rev. Stat. 1989, ch. 111 1/2, par. 211 et seq.~~).
- g) ~~Any person holding a permit or certificate issued by the Illinois Commerce Commission or the Interstate Commerce Commission and who handles only shipments pursuant to a bill of lading in accordance with such Commission's regulations~~
- gh) Any person who hauls only coal combustion fly ash.
- hi) Any person who hauls only declassified waste or refuse.
- ij) Any person who hauls only special waste exempted by 35 Ill. Adm. Code 808.123 (small quantity generators of 220 pounds or less per month of special waste).
- j) Any person who hauls potentially infectious medical waste that is regulated under 35 Ill. Adm. Code Subtitle M.
- k) Any person who hauls used tires regulated under 35 Ill. Adm. Code 848.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.212 Duration of Nonhazardous Special Waste Hauling Permits

- a) All permits issued under this Part hereunder will be issued for a period not to exceed one year and are renewable.
- b) Applications for renewal of a nonhazardous special waste hauling permit should be made prior to the expiration date of the permit on the application forms prescribed in Section 809.302.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART C: DELIVERY AND ACCEPTANCE

Section 809.301 Requirements for Delivery of Nonhazardous Special Waste to Transporters-Haulers

No person ~~may~~ shall deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste ~~transporter~~ hauler who holds a current ~~nonhazardous, valid~~ special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or C of this Part.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.302 Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters ~~Haulers~~

- a) No person ~~may~~ shall accept any special waste for disposal, storage or treatment within Illinois from a special waste ~~transporter~~ hauler unless the special waste ~~transporter~~ hauler has a valid nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or J of this Part and concurrently presents to the receiver of the special waste, or the receiver's ~~his~~ agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates the receiver's facility as the destination for the special waste.
- b) No person ~~may~~ shall deliver special waste in Illinois for disposal, storage or treatment unless the person who accepts the special waste has a current, valid operating permit issued by the Agency and the necessary supplemental permits required by 35 Ill. Adm. Code 807, as well as all other applicable permits as required by the Act and Board regulations.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART D: PERMIT AVAILABILITY ~~VEHICLE NUMBERS~~ AND SYMBOLS

Section 809.401 Permit Availability ~~Vehicle Numbers~~

~~The owner and operator of any vehicle, except truck tractors as defined in Subpart A, which is used to transport special waste shall list each such vehicle on the special waste hauling permit application.~~ Upon issuance of a nonhazardous special waste hauling permit or a Uniform Program registration and permit, the owner and operator of any such vehicle used to transport nonhazardous special or hazardous waste shall maintain within the vehicle a legible photocopy of the nonhazardous special waste hauling permit or Uniform Program registration and permit. ~~Upon request, issuance~~ Issuance of the nonhazardous special waste hauling permit or Uniform Program registration and permit shall be disclosed by the owner and operator of the vehicle to any representative of the State of Illinois (including, but not limited to, the Agency), any generator~~(s)~~ of the special waste, or any treatment, storage, or disposal facility that ~~which~~ has handled, is handling, or will handle the special waste. Upon request by any such

representative, the transporter shall make available a photocopy of the nonhazardous special waste hauling permit or Uniform Program registration and permit to the representative. ~~photocopy shall be made available by the owner and operator of the vehicle for review.~~ The owner and operator of the vehicle shall also comply with any otherwise applicable federal regulations.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 809.402 Nonhazardous Special Waste Symbols

All vehicles used to transport special waste and packages used to contain special waste shall be labeled, marked and placarded in accordance with regulations adopted by the Illinois Department of Transportation or the United States Department of Transportation or the United States Environmental Protection Agency, whichever has jurisdiction. ~~This rule is provided for informational purposes only, and does not constitute an independently enforceable regulation with respect to labeling, marking and placarding requirements~~

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART E: MANIFESTS, RECORDS AND REPORTING

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

- a) Any person who delivers special waste to a permitted nonhazardous special or hazardous waste transporter shall complete a uniform hazardous waste manifest to accompany the special waste from delivery to the destination of the special waste. The manifest form will be provided or prescribed by the Agency.
- a) ~~Any person who delivers special waste to a permitted special waste hauler shall complete a manifest to accompany the special waste from delivery to the destination of the special waste. The manifest which shall be provided or prescribed by the Agency shall, as a minimum, contain the name of the generator of the special waste; when and where generated; name of the person from whom delivery is accepted and the name of the site from which delivered; the name of the special waste hauler; the date of delivery; the final disposal, storage or treatment site; and the name, classification and quantity of the special waste delivered to the hauler. The Agency may provide or prescribe a different form of manifest for Class A special wastes than for Class B special wastes.~~
- b) The transporter shall include in the manifest the following:
 - 1) The name of the generator of the special waste and generator number;

- 2) Information stating when and where the special waste was generated;
 - 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
 - 4) The name and permit number of the transporter;
 - 5) The date of delivery; and
 - 6) The classification and quantity of the special waste delivered to the transporter.
- c) Manifest copies to be sent to the Agency:
- 1) Every person who delivers RCRA hazardous waste or ~~P~~polychlorinated ~~B~~biphenyl ("PCB") wastes to a transporter shall submit a copy of the Illinois manifest to the Agency within two days ~~after~~ of the shipment. Every person who accepts RCRA hazardous waste or PCB waste from a transporter shall submit a copy of the Illinois manifest to the Agency within 30 days of receipt.
 - 2) ~~A~~Every person who delivers RCRA hazardous waste or PCB wastes to a transporter on another state's manifest, such as where the destination state requires use of its manifest, does not have to submit manifest copies to the Agency.
 - 3) ~~A~~Every person who delivers non-RCRA hazardous wastes or non-PCB wastes to a transporter does not have to send a copy of the manifest to the Agency. ~~A~~Every person who accepts non-RCRA hazardous waste or non-PCB wastes from a transporter does not have to send a copy of the manifest to the Agency.
- db) The manifest ~~will shall~~ consist of at least four parts, in contrasting colors, such that an entry or signature on one part will be directly reproduced upon all underlying parts. The top part of the manifest shall be signed by the person who delivers special waste to a special waste ~~transporter-hauler, such signature~~ acknowledging ~~the~~ such delivery. The top part of the manifest shall also be signed by the special waste ~~transporter-hauler, such signature~~ acknowledging receipt of the special waste. The person who delivers special waste to a special waste ~~transporter hauler~~ shall retain the designated top part(s) ~~part~~ of the manifest as a record. The remaining ~~three~~ parts of the manifest shall accompany the special waste shipment. At the destination, the ~~second part of the~~ manifest shall be signed by the person who accepts special waste from a special waste ~~transporter-hauler, such signature~~ acknowledging receipt ~~acceptance~~ of the special waste.

- ee) A permitted site ~~that which~~ receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter hauler shall be conducted under a manifest initiated by the permitted disposal, storage or treatment site.
- f) ~~Every person who delivers Class A special waste to a special waste hauler, and every person who accepts Class A special waste from a special waste hauler shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar quarter. Such reports shall, at a minimum, include the information specified in subsections (h) and (l) of this Section and be mailed no later than the tenth day of the month following the end of the calendar quarter. This subsection shall be applicable to all Class A special wastes which are delivered to a special waste hauler on or after January 1, 1991.~~
- fd) In all cases, the special waste transporter hauler shall deliver the designated ~~third and fourth~~ parts of the completed, signed manifest to the person who accepts delivery of special waste from the transporter hauler. The special waste transporter hauler shall retain the designated ~~second~~ part of the completed, signed manifest as a record of delivery to a permitted disposal, storage or treatment site. In addition, at the end of each month, or ~~such longer~~ if ~~period of time~~ approved by the Agency, the owner and the operator of the permitted disposal, storage or treatment site who accepts special waste from a special waste transporter hauler shall send the designated ~~fourth~~ part of the completed manifest to the person who delivered the special waste to the special waste transporter hauler.
- ge) Every generator ~~person~~ who delivers special waste to a special waste transporter hauler, every person who accepts special waste from a special waste transporter hauler and every special waste hauler-transporter shall retain their respective parts of the special waste manifest as a record of all special waste transactions. These parts shall be retained for three years and will ~~shall~~ be made available at reasonable times for inspection and photocopying by the Agency.
- BOARD NOTE: The manifest requirements of 35 Ill. Adm. Code 722, 724 and 725 relative to RCRA hazardous wastes are not affected by this subsection. Generators and receiving facilities subject to those Parts shall continue to supply designated copies of all manifests to the Agency.
- hg) Every generator ~~person~~ who delivers nonhazardous Class B special waste via a transporter to a facility located outside Illinois ~~special waste hauler~~, and every person who accepts Class B special waste from a special waste hauler shall file a report, on forms prescribed or provided by the Agency, summarizing all such

activity during the preceding calendar year, ~~ending on August 1~~. Such reports shall, at a minimum, include the information specified in subsection ~~(i)(h)~~ of this Section and ~~should~~ be received by the Agency ~~mailed~~ no later than February 1. ~~October 1, i.e., two months following the end of the preceding year. This subsection shall be applicable to all Class B special wastes which are delivered on or after January 1, 1991.~~

- ih) Every ~~quarterly or annual~~ report required to be filed with the Agency by a generator for waste going out of state pursuant to subsection ~~(h)(f) or (g)~~ of this Section shall include the following:
- 1) The IEPA identification number, name and address of the generator;
 - 2) The period (calendar ~~quarter or year~~) covered by the report;
 - 3) The IEPA identification number, name and address for each off-site treatment, storage or disposal facility ~~in the United States~~ to which waste was shipped during the period;
 - 4) The name and IEPA special waste hauling identification ~~number~~ of each transporter used during the period for shipments to a treatment, storage or disposal facility ~~within the United States~~;
 - 5) ~~The IEPA supplemental permit identification number issued for the waste stream shipped off site;~~
 - 56) A description and the total quantity of each nonhazardous special waste wastestream shipped out of state off site, listed by IEPA identification number of each receiving site; and
 - 6) The method of treatment, storage or disposal for each nonhazardous special waste; and
 - 7) A certification signed by the generator or the generator's authorized representative.
- j) Every in-State facility that accepts nonhazardous special waste from a nonhazardous special waste transporter shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports should, at a minimum, include the information specified in subsection (k)(j) of this Section and be received by the Agency no later than February 1. This subsection is applicable to all nonhazardous special wastes that are delivered to a nonhazardous special waste transporter on or after January 1, 1991.

ki) Every ~~quarterly or annual~~ report required to be filed with the Agency by a person accepting nonhazardous special waste from a nonhazardous special waste transporter hauler pursuant to subsection ~~(j)(i)(f) or (g)~~ of this Section shall include the following information:

- 1) The IEPA identification number, name and address of the facility;
- 2) The period (calendar ~~quarter or year~~) covered by the report;
- 3) ~~The For off site facilities, the~~ IEPA identification number, name and address of each nonhazardous special hazardous waste generator from which the facility received a nonhazardous non hazardous special waste during the period; ~~for imported shipments, the report must give the name and address of the foreign generator;~~
- 4) A description and the total quantity of each nonhazardous non hazardous special waste the facility received from off-site during the period. This information shall ~~must~~ be listed by IEPA identification number of each generator;
- 5) The method of treatment, storage or disposal for each nonhazardous non hazardous special waste; and
- 6) A certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART F: DURATION OF SPECIAL WASTE HAULER PERMITS AND TANK NUMBERS (Repealed)

Section 809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

- a) ~~All permits and tank numbers issued hereunder shall be issued for a period not to exceed one year and are renewable.~~
- b) ~~Applications for renewal of a special waste hauler permit shall be made 90 days prior to the expiration date of the permit on the application forms prescribed in Section 809.202.~~

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section 809.701 General Provision

In order to facilitate the clean-up, transportation or safe treatment, storage or disposal of any waste generated by ~~a~~ an accidental release of any material or special waste within Illinois that which constitutes a present or potential threat to health or to the environment, the Agency may give written exception from the procedural requirements of this Part and 35 Ill. Adm. Code 807 in accordance with guidelines adopted by the Agency that which are consistent with Section 3003 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) and the Act and Board regulations. ~~A~~ The existence of a written exception from ~~the~~ this Agency under this Subpart does ~~shall~~ not constitute a defense to a violation of the Act or of this Part except for those requirements specifically stated in the written exception.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART H: EFFECTIVE DATES

Section 809.801 Compliance Date

Except as otherwise provided in this Subpart, any person subject to the provisions of this Part shall comply with such provisions on and after the effective date of this Part.

Section 809.802 Exceptions (Repealed)

~~Every person subject to the provisions of Sections 809.201, 809.301, 809.302, 809.401, 809.402 and 809.501 shall comply with such rules 120 days after the effective date of this Part.~~

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART J: UNIFORM PROGRAM

Section 809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program

- a) Beginning July 1, 1998, no person may transport offsite any hazardous waste (or mixture of hazardous and nonhazardous waste) into, through, or within Illinois, without registering and obtaining a permit under the Uniform Program, or in violation of any permit condition for any permit required under this subsection and issued by the Agency or by any participating state.
 - 1) A transporter with its principal place of business in Illinois shall obtain a uniform registration and a uniform permit from the Agency.
 - 2) A transporter with its principal place of business in another state shall designate another participating state in the Uniform Program as its base state and shall obtain a uniform registration from the base state, if the

base state requires registration, and shall obtain a uniform permit from the base state before transporting hazardous waste in Illinois.

- b) Small quantity generators of 100 kilograms (220 pounds) or less per month are ~~per~~ exempt from the uniform registration and uniform permit requirements of this Part, except generators of acute hazardous waste as specified in 35 Ill. Adm. Code 721.105(e).
- c) A hazardous waste transporter shall comply with all the provisions of 49 CFR ~~Parts~~ 171, 172, 177, 178, 180, 383, 387, and 390-397, incorporated by reference in Section 809.104, if the hazardous waste is transported in Illinois.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.911 Application for a Uniform Permit

- a) Hazardous waste transporters whose base state is Illinois shall obtain a uniform permit from the Agency by completing Part II of the uniform application, provided by the Agency. The application form, provided by the Agency, will be identical in scope, coverage, and content to the uniform procedures and forms required by the Uniform Program. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the uniform permit.
- b) The following procedures apply to the submittal of an application for a uniform permit:
- 1) An application for a uniform permit is considered filed when the Agency receives a completed application on the form provided by the Agency and with the correct fee, set forth in Sections 809.913 and 809.915.
 - 2) A completed application must include all information required in Part II of the uniform application.
 - 3) The Agency will notify the transporter in writing within 90 days ~~after~~ receipt of the application if the application is incomplete. If incomplete, the application will not be reviewed, and a copy of it will be returned to the transporter with instructions for resubmittal.
 - 4) If the Agency is unable to take final action (which includes granting or denying the uniform permit as requested, or by granting the uniform permit with conditions) within 90 days ~~after~~ the date the completed application is filed, the Agency will issue a Letter of Filing to the applicant. Letters of Filing will include the following:

- A) A statement indicating that the applicant is in compliance with the application requirements of the Uniform Program;
 - B) A statement that law enforcement officials in all participating jurisdictions shall honor Letters of Filing as temporary evidence of compliance with the Uniform Program; and
 - C) An expiration date 180 days from the date the Letter of Filing is issued.
- 5) On or before the expiration of any Letter of Filing the Agency will take final action on the completed application or the applicant may deem the uniform permit granted for the three year permit period, commencing on the day the completed application was filed with the Agency.
- c) The uniform permit will be valid for a period of three years unless:
 - 1) a transporter fails to renew its annual uniform registration; or
 - 2) there is a change in the transporter's operations during the permitting period (i.e., a transporter with a Part I uniform permit begins transporting hazardous waste in a state that requires a Part III disclosure).
 - d) If the transporter's operations change during the permitting period, the transporter shall submit a new uniform permit application (Part II) detailing the changes. The Agency will review the changes in accordance with the criteria and procedures outlined in the Alliance for Uniform HazMat Transportation Procedures, incorporated by reference in Section 809.104(d), for evaluation of the application.
 - e) The Agency will send all denial notices and applications granted with conditions by U.S. Registered or Certified Mail, return receipt requested. All other final notices may be sent by regular U.S. mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after of the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.
 - f) The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application.

(Source: Added at 23 Ill. Reg. _____, effective _____)

- a) Hazardous waste transporters whose base state is Illinois shall obtain a uniform registration from the Agency by completing Part I of the uniform application, provided by the Agency, during the first year of each three-year permitting period. A hazardous waste transporter whose base state is Illinois shall renew the uniform registration from the Agency by completing Parts I and IV of the uniform application, provided by the Agency, during the second and third years. The application form will be identical in scope, coverage, and content to the uniform procedures and forms required by the Uniform Program. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the uniform registration.
- b) The following procedures apply to the submittal of an application for a uniform registration:
- 1) An application for uniform registration is considered filed when the Agency receives a completed application on the forms provided by the Agency and with the correct fees, set forth in Sections 809.914 and 809.915.
 - 2) A completed application must include all information required in Part I of the uniform application during the first year and all information required in Parts I and IV during the second and third years.
 - 3) The Agency will notify the transporter in writing within 90 days after of receipt of the application if the application is incomplete. If incomplete, the application will not be reviewed, and a copy of it will be returned to the transporter with instructions for resubmittal.
 - 4) If the Agency is unable to take final action (which includes granting or denying the uniform registration as requested, or by granting the uniform registration with conditions) within 90 days after of the date the completed application is filed, the Agency will issue a Letter of Filing to the applicant. Letters of Filing will include the following:
 - A) A statement indicating that the applicant is in compliance with the application requirements of the Uniform Program;
 - B) A statement that law enforcement officials in all participating jurisdictions shall honor Letters of Filing as temporary evidence of compliance with the Uniform Program; and
 - C) An expiration date 180 days from the date the Letter of Filing is issued.
 - 5) On or before the expiration of any Letter of Filing the Agency will take final action on the completed application or the applicant may deem the

uniform registration granted for the one year registration period, commencing on the day the completed application was filed with the Agency.

- c) The uniform registration is valid for a period of one year and must be renewed annually.
- d) The Agency will send all denials and applications granted with conditions by U.S. Registered or Certified Mail, return receipt requested. All other final Agency decisions may be sent by regular U.S. mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after of the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.
- e) The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.913 Payment of Processing and Audit Fees

Beginning July 1, 1998, and annually thereafter, each transporter designating Illinois as its base state must pay a \$250.00 processing and audit fee for administering the uniform registration and permit program as set forth in Section 22.2 of the Act.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.914 Payment of Apportioned Mile Fees

- a) Beginning July 1, 1998, and annually thereafter, all transporters whose base state is Illinois shall pay registration fees to the Agency for apportioned miles for all states that are participating in the uniform registration program and in which the transporter hauls hazardous waste. The Agency shall transmit to other participating states the registration fees collected each calendar quarter on behalf of the other participating states within 30 days after of the last day of the calendar quarter. A transmittal report will accompany each payment and will summarize the fees collected and list the transporters from which the fees were collected. The level of hazardous material transportation activity within a state should be calculated using the instructions in the Uniform Application and should be based on two factors:

- 1) The percentage of mileage in the state; and
 - 2) The percentage of the transporter's total activity that involves the transport of hazardous wastes.
- b) For Illinois, the registration fee should be calculated by multiplying the percentage of Illinois transportation by the percentage of hazardous waste transportation multiplied by the total number of vehicles the transporter operates multiplied by the \$20.00 registration fee set forth in Section 22.2 of the Act.
- c) A transporter should determine its percentage of Illinois transportation by dividing the number of miles it traveled in Illinois during the previous year by the number of miles it traveled nationwide during the previous year. If a transporter operates only in Illinois, it should use 100 percent of the miles traveled as its percentage of Illinois transportation. A transporter may separately calculate fees payable for each fleet the transporter operates.
- d) A transporter shall determine its percentage of hazardous waste transportation by using a method based on general percentage ranges. A transporter shall determine its percentage of hazardous waste transportation as follows:
- 1) For less-than-truckload shipments, the transporter should divide the weight of the transporter's hazardous waste shipments transported during the previous year by the total weight of all shipments transported during the previous year.
 - 2) For the truckload shipments, the transporter should divide the number of shipments transported during the previous year for which placarding, marking, or manifesting was required by the Code of Federal Regulations, Title 49, Part 172, by the total number of all shipments transported during the previous year.
 - 3) A transporter that transports both truckload and less-than-truckload shipments of hazardous waste should determine its percentage of hazardous waste transportation by calculating the percentage of business that is hazardous waste transportation on a proportional basis with the percentage of business that is not hazardous waste transportation.
 - 4) A transporter may use data from its most recent complete fiscal year or the most recent complete calendar year in calculating the percentages required in this Subpart for transportation conducted during the previous year. If the applicant elects to change the reporting year in a subsequent application, the applicant must inform the Agency of its intention in writing.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.915 Submittal of Fees

Any person who submits an application for a uniform registration and uniform permit to the Agency must determine the total fees owed in accordance with the instructions in the Final Report: Uniform Program Pilot Project, incorporated by reference in Section 809.104, the Act, and Sections 809.913 and 809.914 of this Part.

- a) The transporter must attach or enclose with the application a certified check, cashier's check or money order payable to the Treasurer, State of Illinois in the appropriate amount.
- b) When an application is denied, any fees submitted with the application will be non-refundable. Any subsequent re-filing of the application will be considered a new application for which an application fee must be included in accordance with subsection (a) of this Section.
- c) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and returned to the Agency within 30 days after the initial date-stamped rejection.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.916 Previously Permitted Transporters

- a) From July 1, 1998 until June 30, 1999, a transporter who previously obtained an Illinois Special Waste Transporter Permit is not required to obtain a uniform permit or uniform registration under this Subpart for the transportation of hazardous waste in Illinois until the transporter's special waste permit expires.
- b) Transporters with permits expiring July 1, 1998 through June 30, 1999, and whose base state is Illinois shall submit uniform registration and permit applications to the Agency and should apply 90 days in advance of the expiration date of their current permit. If the Agency cannot timely review the uniform registration and permit applications within 90 days, the current Illinois Special Waste Transportation permit will be extended by operation of law for 30 days, or until the Agency takes final action on its applications, whichever occurs first. However, if the transporter fails to submit its new uniform registration and uniform permit applications 90 days in advance of the expiration of the current permit, the current Illinois Special Waste Transporter permit will expire on the expiration date indicated in the permit.

- c) Beginning July 1, 1998, all Uniform Program permits issued by other states that have not expired or been revoked will be acceptable for the transportation of hazardous waste in Illinois.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.917 Uniform Registration and Uniform Permit Conditions

- a) When reviewing uniform registrations or uniform permits, the Agency may impose such conditions as are necessary to satisfy the requirements of the Uniform Program set forth in this Part.
- b) The applicant may deem any conditions imposed by the Agency as a denial of the uniform registration or uniform permit for purposes of review pursuant to Section 40 of the Act.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.918 Uniform Registration and Uniform Permit Revision

Changes to the uniform registration or uniform permit, or the applications, issued pursuant to this Part can only be made by the U.S. Secretary of Transportation or other entity authorized pursuant to federal law. The Agency will revise any uniform registration and uniform permit issued under this Part to conform with any such changes and notify the permittee in writing. Failure of the Agency to issue a revised uniform registration or uniform permit is not a defense to a violation of any ~~such-changeds~~ permit condition.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.919 Transfer of Uniform Registration and Uniform Permits

No uniform registration and permit is transferable from one person to another.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.920 Audits and Uniform Registration and Uniform Permit Revocation

The Agency will conduct audits to ensure that the transporter is accurately reporting its hazardous waste transportation activity. If a transporter violates any of the uniform permit conditions or fails to comply with any provisions of the Act or with any Board regulation, sanctions may be imposed as provided in the Act, including revocation of the uniform permit and uniform registration. As part of the audit process the Agency is authorized, within constitutional limitations, to do the following:

- a) Require transporters to allow Agency representatives to inspect or examine any commercial vehicle or facility operated by a transporter who transports hazardous waste in this State;
- b) Require transporters to produce papers, books, records, documents, or other evidentiary material necessary to determine if a transporter is accurately reporting its hazardous waste transportation operations and is otherwise complying with the Uniform Program; and
- c) Require transporters to allow Agency representatives to conduct investigations and audits necessary to determine if a transporter is entitled to a uniform permit or to make a suspension or revocation determination.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 809.921 Permit No Defense

The existence of a uniform permit or uniform registration under this Part ~~these rules~~ does not provide the permittee with a defense to a violation of the Act or Board regulations, except for hauling hazardous waste without a uniform permit or uniform registration.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Appendix A
Old Rule Numbers Reference (Repealed)

The following table is provided to aid in referencing old Board rule numbers to section numbers pursuant to codification.

Chapter 9: Special Waste Hauling	35 Ill. Adm. Cost 809
Rule 101	Section 809.101
Rule 102	Section 809.102
Rule 103	Section 809.103
Rule 201	Section 809.201
Rule 202	Section 809.202
Rule 203	Section 809.203
Rule 204	Section 809.204
Rule 205	Section 809.205
Rule 206	Section 809.206
Rule 207	Section 809.207
Rule 208	Section 809.208
Rule 209	Section 809.209
Rule 210	Section 209.210
Rule 211	Section 809.211

Rule 301	Section 809.301
Rule 302	Section 809.302
Rule 401	Section 809.401
Rule 402	Section 809.402
Rule 501	Section 809.501
Rule 601	Section 809.601
Rule 701	Section 809.701
Rule 801	Section 809.801
Rule 802	Section 809.802
Rule 901	Section 809.901
Rule 902	Section 809.902
Rule 903	Section 809.903
Rule 904	Section 809.904
Rule 905	Section 809.905
Rule 906	Section 809.906

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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

PART 811
 STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section	
811.101	Scope and Applicability
811.102	Location Standards
811.103	Surface Water Drainage
811.104	Survey Controls
811.105	Compaction
811.106	Daily Cover
811.107	Operating Standards
811.108	Salvaging
811.109	Boundary Control
811.110	Closure and Written Closure Plan
811.111	Postclosure Maintenance

SUBPART B: INERT WASTE LANDFILLS

Section	
811.201	Scope and Applicability
811.202	Determination of Contaminated Leachate
811.203	Design Period
811.204	Final Cover
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811.206	Leachate Sampling
811.207	Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section	
811.301	Scope and Applicability
811.302	Facility Location
811.303	Design Period
811.304	Foundation and Mass Stability Analysis
811.305	Foundation Construction
811.306	Liner Systems
811.307	Leachate Drainage System
811.308	Leachate Collection System
811.309	Leachate Treatment and Disposal System
811.310	Landfill Gas Monitoring
811.311	Landfill Gas Management System
811.312	Landfill Gas Processing and Disposal System
811.313	Intermediate Cover
811.314	Final Cover System
811.315	Hydrogeological Site Investigations
811.316	Plugging and Sealing of Drill Holes
811.317	Groundwater Impact Assessment
811.318	Design, Construction, and Operation of Groundwater Monitoring Systems
811.319	Groundwater Monitoring Programs
811.320	Groundwater Quality Standards
811.321	Waste Placement
811.322	Final Slope and Stabilization
811.323	Load Checking Program
811.324	Corrective Action Measures for MSWLF Units
811.325	Selection of remedy for MSWLF Units
811.326	Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section	
811.401	Scope and Applicability
811.402	Notice to Generators and Transporters
811.403	Special Waste Manifests
811.404	Identification Record
811.405	Recordkeeping Requirements

811.406 Procedures for Excluding Regulated Hazardous Wastes

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section

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 811.502 Duties and Qualifications of Key Personnel
 811.503 Inspection Activities
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 811.506 Foundations and Subbases
 811.507 Compacted Earth Liners
 811.508 Geomembranes
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SUBPART G: FINANCIAL ASSURANCE

Section

811.700 Scope, Applicability and Definitions
 811.701 Upgrading Financial Assurance
 811.702 Release of Financial Institution
 811.703 Application of Proceeds and Appeals
 811.704 Closure and Postclosure Care Cost Estimates
 811.705 Revision of Cost Estimate
 811.706 Mechanisms for Financial Assurance
 811.707 Use of Multiple Financial Mechanisms
 811.708 Use of a Financial Mechanism for Multiple Sites
 811.709 Trust Fund for Unrelated Sites
 811.710 Trust Fund
 811.711 Surety Bond Guaranteeing Payment
 811.712 Surety Bond Guaranteeing Performance
 811.713 Letter of Credit
 811.714 Closure Insurance
 811.715 Self-Insurance for Non-commercial Sites
 811.716 Local Government Financial Test
 811.717 Local Government Guarantee
 811.718 Discounting
811.719 Corporate Financial Test
811.720 Corporate Guarantee

811.Appendix A Financial Assurance Forms

Illustration A	Trust Agreement
Illustration B	Certificate of Acknowledgment
Illustration C	Forfeiture Bond
Illustration D	Performance Bond
Illustration E	Irrevocable Standby Letter of Credit
Illustration F	Certificate of Insurance for Closure and/or Postclosure Care

Illustration G	Operator's Bond Without Surety
Illustration H	Operator's Bond With Parent Surety
Illustration I	Letter from Chief Financial Officer

811.Appendix B Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. _____, effective _____.

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section 811.402 Notice to Generators and Transporters

A prominent sign at the entrance to each solid waste management facility shall state that disposal of hazardous waste is prohibited and, if it is a facility permitted by the Agency to accept special wastes pursuant to 35 Ill. Adm. Code 808, also state that special waste will be accepted only if accompanied by an identification record and a manifest, unless such waste is exempted from the manifest requirements of this Part and 35 Ill. Adm. Code 809.Subpart F-E.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 811.403 Special Waste Manifests

- a) Each special waste accepted for disposal at a permitted solid waste management facility shall be accompanied by a manifest containing the following information, unless such special waste is disposed at an onsite facility and exempted, in accordance with 35 Ill. Adm. Code 809.311 ~~809.211~~, from the manifest requirement:
 - 1) The name of the generator of the special waste;

- 2) When and where the special waste was generated;
 - 3) The name of the special waste transporter~~hauler~~;
 - 4) The name of the solid waste management facility to which it is shipped as a final destination point;
 - 5) The date of delivery;
 - 6) The name, waste stream permit number (if applicable) and quantity of special waste delivered to the transporter~~hauler~~;
 - 7) The signature of the person who delivered the special waste to the special waste transporter~~hauler~~, acknowledging such delivery;
 - 8) The signature of the special waste transporter~~hauler~~, acknowledging receipt of the special wastes; and
 - 9) The signature of the person who accepted the special waste at its final destination, acknowledging acceptance of the special waste.
- b) A permitted facility that accepts special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter~~hauler~~ shall be conducted under a transportation record initiated by the permitted solid waste management facility.
- c) Distribution of Manifests After Delivery
- 1) The receiving solid waste management facility, shall accept special waste only if accompanied by three copies of the manifest from the transporter~~hauler~~. The transporter~~hauler~~ shall retain one copy.
 - 2) The receiving solid waste management facility shall:
 - A) Send one copy of the completed transportation record to the person who delivered the special waste to the special waste transporter~~hauler~~ (usually the generator, or another special waste management facility);
 - B) Send one copy of each signed manifest to the Agency in accordance with the requirements of 35 Ill. Adm. Code 809; and

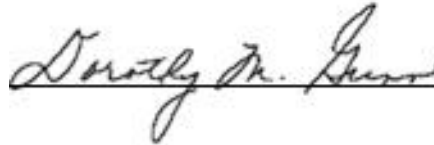
- C) Send information on rejected loads to the Agency in a quarterly report.

- d) Every person who delivers special waste to a special waste transporter~~hauler~~, every person who accepts special waste from a special waste transporter~~hauler~~ and every special waste transporter~~haul~~ shall retain a copy of the special waste transportation record for each special waste transaction. These copies shall be retained for three years, and shall be made available at reasonable times for inspection and photocopying by the Agency pursuant to Section 4(d) of the Act.

(Source: Amended at 23 Ill. Reg. _____. effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 15th day of April 1999 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board