

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

July 21, 2003 (68 Fed. Reg. 43272)	USEPA approved new methods for microbiological analysis of water and wastewater.
September 19, 2003 (68 Fed. Reg. 54934)	USEPA corrected its July 21, 2003 approval of new methods for microbiological analysis of water and wastewater.

Review of these two federal actions, however, indicates that the Board will not need to update the incorporation of 40 C.F.R. 136 by reference to include them. The methods approved by USEPA relate exclusively to microbiological analysis of water and waste. Such microbiological analysis is not used to implement the RCRA Subtitle C hazardous waste regulations.

Thus, the Board is acting in this consolidated R04-16 docket on the following USEPA amendments:

July 30, 2003 (68 Fed. Reg. 44659)	USEPA adopted a number of corrective and clarifying amendments to the used oil management standards.
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Specifically, the amendments to Part 721 implement segments of the federal corrective and clarifying amendments to the used oil rules.

Tables appear in the Board's opinion and order of April 1, 2004 in docket R04-16 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 1, 2004 opinion and order in docket R04-16.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Will this proposed amendment replace any emergency amendment currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date?: No

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- 8) Does this proposed amendment contain incorporations by reference? No. The segments of Part 721 that are involved in this proceeding include no incorporations by reference.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of statewide policy objectives: These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act, [30 ILCS 805/3(b) (2002)].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R04-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference Docket R04-16:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601
Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste.

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- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.
- 13) Regulatory agenda on which this rulemaking was summarized: January 2004

The full text of the Proposed Amendment begins on the next page:

EXEMPT

JCAR350721-0406300r01

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE G: WASTE DISPOSAL
3 CHAPTER I: POLLUTION CONTROL BOARD
4 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS
5

6 PART 721
7 IDENTIFICATION AND LISTING OF
8 HAZARDOUS WASTE
9

10 SUBPART A: GENERAL PROVISIONS
11

12 Section

- 13 721.101 Purpose and Scope
14 721.102 Definition of Solid Waste
15 721.103 Definition of Hazardous Waste
16 721.104 Exclusions
17 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity
18 Generators
19 721.106 Requirements for Recyclable Materials
20 721.107 Residues of Hazardous Waste in Empty Containers
21 721.108 PCB Wastes Regulated under TSCA
22 721.109 Requirements for Universal Waste
23

24 SUBPART B: CRITERIA FOR IDENTIFYING THE
25 CHARACTERISTICS OF HAZARDOUS WASTE
26 AND FOR LISTING HAZARDOUS WASTES
27

28 Section

- 29 721.110 Criteria for Identifying the Characteristics of Hazardous Waste
30 721.111 Criteria for Listing Hazardous Waste
31

32 SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE
33

34 Section

- 35 721.120 General
36 721.121 Characteristic of Ignitability
37 721.122 Characteristic of Corrosivity
38 721.123 Characteristic of Reactivity
39 721.124 Toxicity Characteristic
40

41 SUBPART D: LISTS OF HAZARDOUS WASTE
42

43 Section

44	721.130	General
45	721.131	Hazardous Wastes from Nonspecific Sources
46	721.132	Hazardous Waste from Specific Sources
47	721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container
48		Residues, and Spill Residues Thereof
49	721.135	Wood Preserving Wastes
50	721.138	Comparable or Syngas Fuel Exclusion
51		
52	721.APPENDIX A	Representative Sampling Methods
53	721.APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)
54	721.APPENDIX C	Chemical Analysis Test Methods
55	721.TABLE A	Analytical Characteristics of Organic Chemicals (Repealed)
56	721.TABLE B	Analytical Characteristics of Inorganic Species (Repealed)
57	721.TABLE C	Sample Preparation/Sample Introduction Techniques
58		(Repealed)
59	721.APPENDIX G	Basis for Listing Hazardous Wastes
60	721.APPENDIX H	Hazardous Constituents
61	721.APPENDIX I	Wastes Excluded by Administrative Action
62	721.TABLE A	Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from
63		Non-Specific Sources
64	721.TABLE B	Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from
65		Specific Sources
66	721.TABLE C	Wastes Excluded by USEPA under 40 CFR 260.20 and 260.22 from
67		Commercial Chemical Products, Off-Specification Species, Container
68		Residues, and Soil Residues Thereof
69	721.TABLE D	Wastes Excluded by the Board by Adjusted Standard
70	721.APPENDIX J	Method of Analysis for Chlorinated Dibenzo-p-Dioxins and
71		Dibenzofurans (Repealed)
72	721.APPENDIX Y	Table to Section 721.138
73	721.APPENDIX Z	Table to Section 721.102

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

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 79 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and
 80 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.
 81 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12,
 82 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in
 83 R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998,
 84 effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986;
 85 amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill.
 86 Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective

87 March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in
 88 R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg.
 89 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January
 90 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39
 91 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective
 92 December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989;
 93 amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill.
 94 Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective
 95 May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-
 96 1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155,
 97 effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992;
 98 amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg.
 99 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26,
 100 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-
 101 16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175,
 102 effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994;
 103 amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill.
 104 Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275,
 105 effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998;
 106 amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended
 107 in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at
 108 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June
 109 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-
 110 21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26
 111 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July
 112 17, 2003; amended in R04-16 at 28 Ill. Reg. _____, effective _____.

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 114 **SUBPART A: GENERAL PROVISIONS**
 115

116 **Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity**
 117 **Generators**
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- 119 a) A generator is a conditionally exempt small quantity generator in a calendar
 120 month if it generates no more than 100 kilograms of hazardous waste in that
 121 month.
- 122
- 123 b) Except for those wastes identified in subsections (e), (f), (g) and (j) of this
 124 Section, a conditionally exempt small quantity generator's hazardous wastes are
 125 not subject to regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and
 126 728, and the notification requirements of section 3010 of Resource Conservation
 127 and Recovery Act, provided the generator complies with the requirements of
 128 subsections (f), (g), and (j) of this Section.
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- c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:
 - 1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;
 - 2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;
 - 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);
 - 4) Hazardous waste that is used oil managed under the requirements of Section 721.106(a)(4) and 35 Ill. Adm. Code 739;
 - 5) Hazardous waste that is spent lead-acid batteries managed under the requirements of Subpart G of 35 Ill. Adm. Code 726; and
 - 6) Hazardous waste that is universal waste managed under Section 721.109 and 35 Ill. Adm. Code 733.

- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
 - 1) Hazardous waste when it is removed from on-site storage;
 - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
 - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

- e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth below in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act.:
 - 1) A total of one kilogram of one or more of the acute hazardous wastes

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listed in Section 721.131, 721.132, or 721.133(e); or

- 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of greater than 1000 kg of non-acute hazardous waste in a calendar month.

- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:

- 1) 35 Ill. Adm. Code 722.111.
- 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
- 3) A conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
 - D) The facility is permitted, licensed, or registered by a state to

216 manage municipal solid waste and, if managed in a municipal solid
217 waste landfill facility, the landfill is subject to 35 Ill. Adm. Code
218 810 through 814 or 40 CFR 258;

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220 E) The facility is permitted, licensed, or registered by a state to
221 manage non-municipal non-hazardous waste and, if managed in a
222 non-municipal non-hazardous waste disposal unit, the unit is
223 subject to the requirements of 40 CFR 257.5 through 257.30.

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225 BOARD NOTE: The Illinois non-hazardous waste landfill
226 regulations, 35 Ill. Adm. Code 810 through 814, do not allow the
227 disposal of hazardous waste in a landfill regulated under those
228 rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of
229 this Section impose a federal requirement on the hazardous waste
230 generator. The Board specifically does not intend that these
231 subsections authorize any disposal of conditionally-exempt small
232 quantity generator waste in a landfill not specifically permitted to
233 accept the particular hazardous waste.

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235 F) The facility is one that fulfills one of the following conditions:

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237 i) It beneficially uses or reuses or legitimately recycles or
238 reclaims its waste; or

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240 ii) It treats its waste prior to beneficial use or reuse or
241 legitimate recycling or reclamation; or

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243 G) For universal waste managed under 35 Ill. Adm. Code 733 or 40
244 CFR 273, the facility is a universal waste handler or destination
245 facility subject to the requirements of 35 Ill. Adm. Code 733 or 40
246 CFR 273.

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248 g) In order for hazardous waste generated by a conditionally exempt small quantity
249 generator in quantities of less than 100 kilograms of hazardous waste during a
250 calendar month to be excluded from full regulation under this Section, the
251 generator must comply with the following requirements:

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253 1) 35 Ill. Adm. Code 722.111;

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255 2) The conditionally exempt small quantity generator may accumulate
256 hazardous waste on-site. If it accumulates at any time more than a total of
257 1000 kilograms of the generator's hazardous waste, all of those
258 accumulated wastes are subject to regulation under the special provisions

259 of 35 Ill. Adm. Code 722 applicable to generators of between 100 kg and
 260 1000 kg of hazardous waste in a calendar month, as well as the
 261 requirements of 35 Ill. Adm. Code 702, 703, 723 through 726, and 728,
 262 and the applicable notification requirements of Section 3010 of the
 263 Resource Conservation and Recovery Act. The time period of 35 Ill.
 264 Adm. Code 722.134(d) for accumulation of wastes on-site begins for a
 265 small quantity generator when the accumulated wastes exceed 1000
 266 kilograms;

- 267
- 268 3) A conditionally exempt small quantity generator may either treat or
 269 dispose of its hazardous waste in an on-site facility or ensure delivery to
 270 an off-site treatment, storage, or disposal facility, any of which, if located
 271 in the United States, meets any of the following conditions:
 272
- 273 A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - 274
 - 275 B) The facility has interim status under 35 Ill. Adm. Code 702, 703,
 276 and 725;
 - 277
 - 278 C) The facility is authorized to manage hazardous waste by a state
 279 with a hazardous waste management program approved by USEPA
 280 under 40 CFR 271 (2002);
 - 281
 - 282 D) The facility is permitted, licensed, or registered by a state to
 283 manage municipal solid waste and, if managed in a municipal solid
 284 waste landfill facility, the landfill is subject to 35 Ill. Adm. Code
 285 810 through 814 or 40 CFR 258;
 - 286
 - 287 E) The facility is permitted, licensed, or registered by a state to
 288 manage non-municipal non-hazardous waste and, if managed in a
 289 non-municipal non-hazardous waste disposal unit, the unit is
 290 subject to the requirements of 40 CFR 257.5 through 257.30;
 - 291

292 BOARD NOTE: The Illinois non-hazardous waste landfill
 293 regulations, 35 Ill. Adm. Code 810 through 814, do not allow the
 294 disposal of hazardous waste in a landfill regulated under those
 295 rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E)
 296 of this Section impose a federal requirement on the hazardous
 297 waste generator. The Board specifically does not intend that these
 298 subsections authorize any disposal of conditionally-exempt small
 299 quantity generator waste in a landfill not specifically permitted to
 300 accept the particular hazardous waste.
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- F) The facility is one that fulfills the following conditions:
 - i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
 - ii) It treats its waste prior to beneficial use or re-use, or legitimate recycling or reclamation; or

- G) For universal waste managed under 35 Ill. Adm. Code 733 or 40 CFR 273, the facility is a universal waste handler or destination facility subject to the requirements of 35 Ill. Adm. Code 733 or 40 CFR 273.

- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.

- i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.

- j) If a conditionally exempt small quantity generator's hazardous wastes are mixed with used oil, the mixture is subject to 35 Ill. Adm. Code 739 ~~if it is destined to be burned for energy recovery~~. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated ~~if it is destined to be burned for energy recovery~~.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

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- 6) Will this proposed amendment replace any emergency amendment currently in effect?
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- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R04-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference Docket R04-16:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601
Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste.

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- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.
- 13) Regulatory agenda on which this rulemaking was summarized: January 2004

The full text of the Proposed Amendment begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section numbers</u> :	<u>Proposed Action</u> :
739.100, 739.110, 739.111	Amend
739.112, 739.120, 739.121	Amend
739.122, 739.123, 739.124	Amend
739.130, 739.131, 739.132	Amend
739.140, 739.141, 739.142	Amend
739.143, 739.144, 739.145	Amend
739.146, 739.147, 739.150	Amend
739.151, 739.152, 739.153	Amend
739.154, 739.155, 739.156	Amend
739.157, 739.158, 739.159	Amend
739.160, 739.161, 739.162	Amend
739.163, 739.164, 739.165	Amend
739.166, 739.167, 739.170	Amend
739.171, 739.172, 739.173	Amend
739.174, 739.175, 739.180	Amend
739.181, 739.182	Amend
- 4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) A complete description of the subjects and issues involved: The amendments to Part 739 are a single segment of a larger rulemaking that also affects 35 Ill. Adm. Code 721, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, see a more detailed description of the subjects and issues involved in the larger rulemaking in this *Illinois Register* only in the answer to question 5 in the Notice of Proposed Amendments for 35 Ill. Adm. Code 721. A comprehensive description is contained in the Board's opinion and order of April 1, 2004, proposing amendments in docket R04-16 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

Specifically, the amendments to Part 739 implement segments of the federal corrective and clarifying amendments to the used oil rules.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Tables appear in the Board's opinion and order of April 1, 2004 in docket R04-16 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 1, 2004 opinion and order in docket R04-16.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? Yes. Part 739 includes a number of incorporations by reference. At Sections 739.110(b)(1)(B), 739.144(c), 739.153(c), and 739.163(c), the format of the incorporation was altered to that used throughout all other parts of the hazardous waste regulations. The incorporation at this location was replaced with a reference to the incorporation of SW-846 by reference at 35 Ill. Adm. Code 720.111.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of statewide policy objectives: These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2002)].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R04-16 and be addressed to:

Ms. Dorothy M. Gumm, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Chicago, IL 60601

Please direct inquiries to the following person and reference Docket R04-16:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601
Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 12) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste.
 - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.
 - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.
- 13) Regulatory agenda on which this rulemaking was summarized: January 2004

The full text of the Proposed Amendments begins on the next page:

EXEMPT

JCAR350739-0406313r01

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE G: WASTE DISPOSAL
3 CHAPTER I: POLLUTION CONTROL BOARD
4 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS
5

6 PART 739
7 STANDARDS FOR THE MANAGEMENT OF USED OIL
8

9
10 SUBPART A: DEFINITIONS
11

12 Section
13 739.100 Definitions
14

15 SUBPART B: APPLICABILITY
16

17 Section
18 739.110 Applicability
19 739.111 Used Oil Specifications~~oil specifications~~
20 739.112 Prohibitions
21

22 SUBPART C: STANDARDS FOR USED OIL GENERATORS
23

24 Section
25 739.120 Applicability
26 739.121 Hazardous Waste Mixing~~waste mixing~~
27 739.122 Used Oil Storage~~oil storage~~
28 739.123 On-Site Burning~~On-site burning~~ in Space Heaters~~space heaters~~
29 739.124 Off-Site Shipments~~Off-site shipments~~
30

31 SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS
32 AND AGGREGATION POINTS
33

34 Section
35 739.130 Do-It-Yourselfer Used Oil Collection Centers~~Do-it-yourselfer used oil collection~~
36 centers
37 739.131 Used Oil Collection Centers~~oil collection centers~~
38 739.132 Used Oil Aggregate Points Owned~~oil aggregate points owned by the~~
39 Generator~~generator~~
40

41 SUBPART E: STANDARDS FOR USED OIL TRANSPORTER
42 AND TRANSFER FACILITIES
43

44 Section
45 739.140 Applicability
46 739.141 Restrictions on Transportertransporters that Are Not Also Processors are-not-also
47 processors
48 739.142 Notification
49 739.143 Used Oil Transportationoil transportation
50 739.144 Rebuttable Presumptionpresumption for Used Oilused oil
51 739.145 Used Oil Storageoil storage at Transfer Facilitiestransfer facilities
52 739.146 Tracking
53 739.147 Management of Residuesresidues

54
55 SUBPART F: STANDARDS FOR USED OIL PROCESSORS

56
57 Section
58 739.150 Applicability
59 739.151 Notification
60 739.152 General Facility Standardsfacility standards
61 739.153 Rebuttable Presumptionpresumption for Used Oilused oil
62 739.154 Used Oil Managementoil management
63 739.155 Analysis Planplan
64 739.156 Tracking
65 739.157 Operating Record and Reportingrecord and reporting
66 739.158 Off-Site ShipmentsOff-site shipments of Used Oilused oil
67 739.159 Management of Residuesresidues

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

71
72 Section
73 739.160 Applicability
74 739.161 Restriction on Burningburning
75 739.162 Notification
76 739.163 Rebuttable Presumptionpresumption for Used Oilused oil
77 739.164 Used Oil Storageoil storage
78 739.165 Tracking
79 739.166 Notices
80 739.167 Management of Residuesresidues

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82 SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

83
84 Section
85 739.170 Applicability
86 739.171 Prohibitions

- 87 739.172 On-Specification Used Oil Fuel~~On-specification used oil fuel~~
- 88 739.173 Notification
- 89 739.174 Tracking
- 90 739.175 Notices

91

SUBPART I: STANDARDS FOR USE AS A
DUST SUPPRESSANT DISPOSAL OF USED OIL

94

95 Section

96 739.180 Applicability

97 739.181 Disposal

98 739.182 Use Asas a Dust Suppressant~~dust suppressant~~

99

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

102

103 SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in
104 R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616,
105 effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995;
106 amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in
107 R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28
108 Ill. Reg. _____, effective _____.

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SUBPART A: DEFINITIONS

111

Section 739.100 Definitions

113

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

116

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

119 BOARD NOTE: This definition is different from the definition for

120 "aboveground~~Aboveground~~ tank" given in 35 Ill. Adm. Code 720.110. Although
121 the meanings are similar, the main distinction is that the definition for this Part
122 limits the tanks to those used to store or process used oil, whereas the 720.110
123 definition contemplates tanks that contain hazardous wastes. ~~This~~The above
124 definition of aboveground tank is limited to this Part only.

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

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129 "Do-it-yourselfer used oil collection center" means any site or facility that accepts

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or aggregates and stores used oil collected only from household do-it-yourselfers.

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

A continuous on-site installation program ~~had~~has begun, or

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

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

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

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

"Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.

"New tank" means a tank that will be used to store or process used oil and for which installation ~~had~~has commenced after ~~October 4, 1996~~the effective date of the authorized used oil program for the State in which the tank is located.

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

"Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants,

173 through fractionation, straight distillation of crude oil, redistillation of unfinished
 174 petroleum derivatives, cracking, or other processes (i.e., facilities classified as
 175 SIC 2911).

176
 177 "Processing" means chemical or physical operations designed to produce from
 178 used oil, or to make used oil more amenable for production of, fuel oils,
 179 lubricants, or other used oil-derived product. Processing includes, but is not
 180 limited to the following: blending used oil with virgin petroleum products,
 181 blending used oils to meet the fuel specification, filtration, simple distillation,
 182 chemical or physical separation, and re-refining.

183
 184 "Re-refining distillation bottoms" means the heavy fraction produced by vacuum
 185 distillation of filtered and dehydrated used oil. The composition of still bottoms
 186 varies with column operation and feedstock.

187
 188 "Tank" means any stationary device, designed to contain an accumulation of used
 189 oil ~~that~~ which is constructed primarily of non-earthen materials, (e.g., wood,
 190 concrete, steel, plastic) which provide~~provides~~ structural support.

191
 192 "Used oil" means any oil that has been refined from crude oil, or any synthetic oil
 193 and, that has been used and as a result of such use is contaminated by physical or
 194 chemical impurities.

195
 196 "Used oil aggregation point" means any site or facility that accepts, aggregates, or
 197 stores used oil collected only from other used oil generation sites owned or
 198 operated by the owner or operator of the aggregation point, from which used oil is
 199 transported to the aggregation point in shipments of no more than 55 gallons.
 200 Used oil aggregation points may also accept used oil from household do-it-
 201 yourselfers.

202
 203 "Used oil burner" means a facility where used oil not meeting the specification
 204 requirements in Section 739.111 is burned for energy recovery in devices
 205 identified in Section 739.161(a).

206
 207 "Used oil collection center" means any site or facility that is registered by the
 208 Agency to manage used oil and accepts or aggregates and stores used oil collected
 209 from used oil generators regulated under Subpart C of this Part that bring used oil
 210 to the collection center in shipments of no more than 55 gallons under the
 211 provisions of Section 739.124. Used oil collection centers may also accept used
 212 oil from household do-it-yourselfers.

213
 214 "Used oil fuel marketer" means any person that conducts either of the following
 215 activities:

216
217 Directs a shipment of off-specification used oil from their facility to a used
218 oil burner; or

219
220 First claims that used oil that is to be burned for energy recovery meets the
221 used oil fuel specifications set forth in Section 739.111.

222
223 "Used oil generator" means any person, by site, whose act or process produces
224 used oil or whose act first causes used oil to become subject to regulation.

225
226 "Used oil processor" means a facility that processes used oil.

227
228 "Used oil transfer facility" means any transportation-related facility including
229 loading docks, parking areas, storage areas, and other areas where shipments of
230 used oil are held for more than 24 hours and not longer than 35 days during the
231 normal course of transportation or prior to an activity performed pursuant to
232 Section 739.120(b)(2). Transfer facilities that store used oil for more than 35
233 days are subject to regulation under Subpart F of this Part.

234
235 "Used oil transporter" means any person that transports used oil, any person that
236 collects used oil from more than one generator and that transports the collected
237 oil, and owners and operators of used oil transfer facilities. Used oil transporters
238 may consolidate or aggregate loads of used oil for purposes of transportation but,
239 with the following exception, may not process used oil. Transporters may conduct
240 incidental processing operations that occur in the normal course of used oil
241 transportation (e.g., settling and water separation), but that are not designed to
242 produce (or make more amenable for production of) used oil derived products or
243 used oil fuel.

244
245 (Source: Amended at 28 Ill. Reg. _____, effective _____)

246
247 **SUBPART B: APPLICABILITY**

248
249 **Section 739.110 Applicability**

250
251 This Section identifies those materials ~~that~~which are subject to regulation as used oil under this
252 Part. This Section also identifies some materials that are not subject to regulation as used oil
253 under this Part, and indicates whether these materials may be subject to regulation as hazardous
254 waste under 35 Ill. Adm. Code 702, 703, 720 through 726, and 728.

255
256 a) Used oil. ~~Used~~USEPA presumes that used oil is presumed to be recycled, unless
257 a used oil handler disposes of used oil; or sends used oil for disposal. Except as
258 provided in Section 739.111, the regulations of this Part apply to used oil; and to

259 materials identified in this Section as being subject to regulation as used oil,
260 whether or not the used oil or material exhibits any characteristics of hazardous
261 waste identified in Subpart C of 35 Ill. Adm. Code 721-Subpart C.
262

263 b) Mixtures of used oil and hazardous waste.

264
265 1) Listed hazardous waste.

266
267 A) A mixture of used oil and hazardous waste that is listed in Subpart
268 D of 35 Ill. Adm. Code 721-Subpart D is subject to regulation as
269 hazardous waste under 35 Ill. Adm. Code 703, 720 through 726,
270 and 728, rather than as used oil under this Part.

271
272 B) Rebuttable presumption for used oil. Used oil containing more
273 than 1,000 ppm total halogens is presumed to be a hazardous waste
274 because it has been mixed with halogenated hazardous waste listed
275 in Subpart D of 35 Ill. Adm. Code 721-Subpart D. Persons may
276 rebut this presumption by demonstrating that the used oil does not
277 contain hazardous waste (for example, by using an analytical
278 method from SW-846, incorporated by reference in 35 Ill. Adm.
279 Code 720.111 Edition III, to show that the used oil does not contain
280 significant concentrations of halogenated hazardous constituents
281 listed in Appendix H of 35 Ill. Adm. Code 721-Appendix H.
282 USEPA Publication SW-846, Third Edition, is available from the
283 Government Printing Office, Superintendent of Documents, P.O.
284 Box 371954, Pittsburgh, PA 15250-7954, (202) 783-3238
285 (document number 955-001-00000-1).

286
287 i) ThisThe rebuttable presumption does not apply to
288 metalworking oils or fluids containing chlorinated
289 paraffins, if they are processed, through a tolling
290 arrangement as described in Section 739.124(c), to reclaim
291 metalworking oils or fluids. ThisThe presumption does
292 apply to metalworking oils or fluids if such oils or fluids
293 are recycled in any other manner, or disposed.

294
295 ii) ThisThe rebuttable presumption does not apply to used oils
296 contaminated with chlorofluorocarbons (CFCs) removed
297 from refrigeration units where the CFCs are destined for
298 reclamation. ThisThe rebuttable presumption does apply to
299 used oils contaminated with CFCs that have been mixed
300 with used oil from sources other than refrigeration units.
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- 2) Characteristic hazardous waste. A mixture of used oil and hazardous waste that exhibits a hazardous waste characteristic identified in Subpart C of 35 Ill. Adm. Code 721. Subpart C and a mixture of used oil and hazardous waste that is listed in Subpart D of this Part solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. Subpart C is subject to the following:
 - A) Except as provided in subsection (b)(2)(C) of this Section, regulation as hazardous waste under 35 Ill. Adm. Code 703, 720 through 726, and 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. Subpart C; or
 - B) Except as provided in subsection (b)(2)(C) of this Section, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721. Subpart C.
 - C) Regulation as used oil under this Part, if the mixture is of used oil and a waste ~~that~~^{which} is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.
- 3) Conditionally exempt small quantity generator hazardous waste. A mixture of used oil and conditionally exempt small quantity generator hazardous waste regulated under 35 Ill. Adm. Code 721.105 is subject to regulation as used oil under this Part.
- c) Materials containing or otherwise contaminated with used oil.
 - 1) Except as provided in subsection (c)(2) of this Section, the following is true of a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible ~~so~~^{such} that no visible signs of free-flowing oil remain in or on the material:
 - A) The material is ~~Is~~ not used oil, and, thus, it is not subject to this Part, and
 - B) If applicable, the material is subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 705, 720 through 726, and 728.

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- 2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.
 - 3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.
 - d) Mixtures of used oil with products.
 - 1) Except as provided in subsection (d)(2) of this Section, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.
 - 2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C of this Part.
 - e) Materials derived from used oil.
 - 1) The following is true of materialsMaterials that are reclaimed from used oil, which that are used beneficially, and which are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants)are:
 - A) The materials are notNot used oil and thus are not subject to this Part, and
 - B) The materials are notNot solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 720 through 726, and 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).
 - 2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.
 - 3) Except as provided in subsection (e)(4) of this Section, the following is true of materials derived from used oil that are disposed of or used in a manner constituting disposalare:
 - A) The materials are notNot used oil and thus are not subject to this

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Part, and

- B) The materials are Are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 720 through 726, and 728 if the materials are listed or identified as hazardous waste.

- 4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.

- f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the federal Clean Water Act (including wastewaters at facilities ~~that~~ which have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

- g) Used oil introduced into crude oil pipelines or a petroleum refining facility.
 - 1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.

 - 2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent 1% used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Part.

 - 3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than one percent 1% of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of this Part.

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- 4) Except as provided in subsection (g)(5) of this Section, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Part.
- 5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).
- 6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.
- h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.
- i) Used oil containing PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3, incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. ~~PCB-containing used~~Used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements of 40 CFR ~~Part~~ 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is ~~solely~~ subject to regulation under federal 40 CFR 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.111 Used Oil Specifications~~oil specifications~~

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this Part unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in the following table~~Table 1~~. Once used oil that is to be burned for energy recovery has been

474 shown not to exceed any specification and the person making that showing complies with
 475 Sections 739.172, 739.173, and 739.174(b), the used oil is no longer subject to this Part.

476
 477 ~~Table 1—Used Oil Not exceeding Any Specification Levels~~ Level Is Not Subject to this Part When
 478 Burned for Energy Recovery¹
 479

Constituent/property	Allowable level
Arsenic	5 ppm maximum ;
Cadmium	2 ppm maximum ;
Chromium	10 ppm maximum ;
Lead	100 ppm maximum ;
Flash point	100 ° F minimum ;
Total halogens	4,000 ppm maximum ² ;

480
 481 FOOTNOTE: ¹ The specification does not apply to mixtures of used oil and hazardous waste that
 482 continue to be regulated as hazardous waste (see Section 39.110(b)).

483
 484 FOOTNOTE: ² Used oil containing more than 1,000 ppm total halogens is presumed to be a
 485 hazardous waste under the rebuttable presumption provided under Section 739.110(b)(1). Such
 486 used oil is subject to Subpart H of 35 Ill. Adm. Code 726, ~~Subpart H~~ rather than this Part, when
 487 burned for energy recovery unless the presumption of mixing can be successfully rebutted.

488
 489 NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40
 490 CFR 761.20(e).

491
 492 (Source: Amended at 28 Ill. Reg. _____, effective _____)

493
 494 **Section 739.112 Prohibitions**

- 495
- 496 a) Surface impoundment prohibition. Used oil ~~must~~ shall not be managed in surface
 497 impoundments or waste piles, unless the units are subject to regulation under 35
 498 Ill. Adm. Code 724 or 725.
 - 499
 - 500 b) Use as a dust suppressant. The use of used oil as a dust suppressant is prohibited;
 501 ~~except when such activity takes place in one of the states listed in Section~~
 502 ~~739.182(e).~~
 - 503
 - 504 c) Burning in particular units. Off-specification used oil fuel may be burned for
 505 energy recovery in only the following devices:

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- 1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;
- 2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:
 - A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;
 - B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
 - C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123.
- 3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724.Subpart O or 725.Subpart O.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section 739.120 Applicability

- a) General. This Subpart C ~~subpart~~ applies to all generators of used oil, except the following:
 - 1) Household "do-it-yourselfer" used oil generators. Household "do-it-yourselfer" used oil generators are not subject to regulation under this Part.
 - 2) Vessels. Vessels at sea or at port are not subject to this Subpart C. For purposes of this Subpart C, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the persons ~~person(s)~~ removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this Subpart C once the used oil is transported ashore. The co-generators may decide among themselves~~them~~ which party will fulfill the requirements of this Subpart C.

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- 3) Diesel fuel. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this Subpart C.
 - 4) Farmers. Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this Part.
- b) Other applicable provisions. A used oil generator that conducts any of the following activities is subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5) below:
- 1) A generator that transports used oil, except under the self-transport provisions of Section 739.124(a) and (b), ~~must~~ shall also comply with 739.Subpart E of this Part.
 - 2) A generator that processes or re-refines used oil.
 - A) Except as provided in subsection (b)(2)(B) ~~of this Section~~ below, a generator that processes or re-refines used oil ~~must~~ shall also comply with 739.Subpart F of this Part.
 - B) A generator that performs the following activities is not a used oil processor, provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel:
 - i) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;
 - ii) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to Section 402 or 307(b) for the federal Clean Water Act (33 ~~USC~~ U.S.C. 1317 or 1342), 40 CFR 403 through 499, or 35 Ill. Adm. Code 310 or 309, governing the discharge of wastewaters;
 - iii) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;
 - iv) Draining or otherwise removing used oil from materials

592 containing or otherwise contaminated with used oil in order
593 to remove excessive oil to the extent possible pursuant to
594 Section 739.110(c); or

595
596 v) Filtering, separating, or otherwise reconditioning used oil
597 before burning it in a space heater pursuant to Section
598 739.123.

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600 3) A generator that burns off-specification used oil for energy recovery,
601 except under the on-site space heater provisions of Section 739.123,
602 ~~must~~shall also comply with ~~739~~.Subpart G of this Part.

603
604 4) A generator that directs shipments of off-specification used oil from their
605 facility to a used oil burner or first claims that used oil that is to be burned
606 for energy recovery meets the used oil fuel specifications set forth in
607 Section 739.111 ~~must~~shall also comply with ~~739~~.Subpart H of this Part.

608
609 5) A generator that disposes of used oil, including the use of used oil as a
610 dust suppressant, ~~must~~shall also comply with ~~739~~.Subpart I of this Part.

611
612 (Source: Amended at 28 Ill. Reg. _____, effective _____)

613
614 **Section 739.121 Hazardous Waste Mixing~~waste-mixing~~**

615
616 a) Mixtures of used oil and hazardous waste must be managed in accordance with
617 Section 739.110(b).

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619 b) The rebuttable presumption for used oil of Section 739.110(b)(1)(B) applies to
620 used oil managed by generators. Under the rebuttable presumption for used oil of
621 Section 739.110(b)(1)(B), used oil containing greater than 1,000 ppm total
622 halogens is presumed to be a hazardous waste and thus must be managed as
623 hazardous waste and not as used oil unless the presumption is rebutted. However,
624 the rebuttable presumption does not apply to certain metalworking oils and fluids
625 and certain used oils removed from refrigeration units.

626
627 (Source: Amended at 28 Ill. Reg. _____, effective _____)

628
629 **Section 739.122 Used Oil Storage~~oil-storage~~**

630
631 A used oil generator is~~Used oil generators are~~ subject to all applicable federal Spill Prevention,
632 Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. A
633 used oil generator is~~Used oil generators are~~ also subject to the Underground Storage Tank (35 Ill.
634 Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil

635 exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

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- a) Storage units. ~~A used oil generator may~~Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. ~~The following must be true of containers~~Containers and aboveground tanks used to store used oil at a generator ~~facility~~facilities ~~must be~~:
 - 1) ~~The containers must be in~~a good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) ~~The containers may not be~~Not leaking (no visible leaks).
- c) Labels.
 - 1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."
 - 2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil."
- d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, a generator ~~must~~shall perform the following cleanup steps:
 BOARD NOTE: Corresponding 40 CFR 279.22(d) applies to releases that "occurred after the effective date of the authorized used oil program for the ~~state~~State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized ~~state~~State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.
 - 1) Stop the release;
 - 2) Contain the released used oil;

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.123 On-Site Burning~~On-site burning in Space Heaters~~space heaters

A generator~~Generators~~ may burn used oil in used oil-fired space heaters provided that the following conditions are fulfilled:

- a) The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;
- b) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and
- c) The combustion gases from the heater are vented to the ambient air.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.124 Off-Site Shipments~~Off-site shipments~~

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

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

- a) Self-transportation of small amounts to registered collection centers. A generator~~Generators~~ may transport, without a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that the following conditions are fulfilled:

- 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

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- 2) The generator transports no more than 55 gallons of used oil at any time; and
- 3) The generator transports the used oil to a used oil collection center that has registered by written notification with the Agency to manage used oil. This notification ~~must~~ shall include information sufficient for the Agency to identify, locate and communicate with the facility. The notification ~~must~~ shall be submitted on forms provided by the Agency.

b) Self-transportation of small amounts to aggregation points owned by the generator. ~~A generator~~ Generators may transport, without a ~~USEPA~~ U.S. EPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site to an aggregation point provided that the following conditions are fulfilled:

- 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- 2) The generator transports no more than 55 gallons of used oil at any time; and
- 3) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.

c) Tolling arrangements. ~~A used oil generator~~ Used oil generators may arrange for used oil to be transported by a transporter without a ~~USEPA~~ U.S. EPA identification number and an Illinois special waste identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor to the generator for use as a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") must indicate the following information:

- 1) The type of used oil and the frequency of shipments;
- 2) That the vehicle used to transport the used oil to the processing facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor; and
- 3) That reclaimed oil will be returned to the generator.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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

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Section 739.130 Do-It-Yourselfer Used~~Do-it-yourselfer-used~~ Oil Collection Center~~oil collection-centers~~

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.131 Used Oil Collection Center~~oil collection-centers~~

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

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

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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Section 739.132 Used Oil Aggregation Points Owned~~oil aggregation points owned~~ by the Generator~~generator~~

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

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

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

Section 739.140 Applicability

- a) General. Except as provided in subsections (a)(1) through (a)(4) of this Section, this Subpart E applies to all used oil transporters. A used oil transporter is a ~~person~~Used oil transporters are persons that ~~transport~~transport used oil, a ~~person~~persons that ~~collect~~collect used oil from more than one generator and ~~transport~~transport the collected oil, and ~~an owner or operator~~owners and operators of a used oil transfer ~~facility~~facilities.
 - 1) This Subpart E does not apply to on-site transportation.
 - 2) This Subpart E does not apply to a ~~generator~~generators that ~~transport~~transport shipments of used oil ~~totaling~~totalling 55 gallons or less from the generator to a used oil collection center as specified in Section 739.124(a).
 - 3) This Subpart E does not apply to a ~~generator~~generators that

850 ~~transport~~ transport shipments of used oil ~~totaling~~ totaling 55 gallons or
 851 less from the generator to a used oil aggregation point owned or operated
 852 by the same generator as specified in Section 739.124(b).
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854 4) This Subpart E does not apply to transportation of used oil from household
 855 do-it-yourselfers to a regulated used oil generator, collection center,
 856 aggregation point, processor, or burner subject to the requirements of this
 857 Part. Except as provided in subsections (a)(1) through (a)(3) of this
 858 Section, this Subpart E does, however, apply to transportation of collected
 859 household do-it-yourselfer used oil from regulated used oil generators,
 860 collection centers, aggregation points, or other facilities where household
 861 do-it-yourselfer used oil is collected.

862 BOARD NOTE: A generator that qualifies for an exemption under
 863 Section 739.124 may still be subject to the State's special waste hauling
 864 permit requirements under Part 809.
 865

866 b) Imports and exports. ~~A transporter~~Transporters that ~~imports~~import used oil from
 867 abroad or export used oil outside of the United States are subject to the
 868 requirements of this Subpart E from the time the used oil enters and until the time
 869 it exits the United States.
 870

871 c) Trucks used to transport hazardous waste. Unless trucks previously used to
 872 transport hazardous waste are emptied as described in 35 Ill. Adm. Code 721.107
 873 prior to transporting used oil, the used oil is considered to have been mixed with
 874 the hazardous waste and must be managed as hazardous waste unless, under the
 875 provisions of Section 739.110(b), the hazardous waste and used oil mixture is
 876 determined not to be hazardous waste.
 877

878 d) Other applicable provisions. ~~A used oil transporter~~Used oil transporters that
 879 ~~conduct~~conduct the following activities are also subject to other applicable
 880 provisions of this Part as indicated in subsections (d)(1) through (d)(5) of this
 881 Section:
 882

883 1) ~~A transporter~~Transporters that ~~generates~~generate used oil ~~must~~shall also
 884 comply with Subpart C of this Part;
 885

886 2) ~~A transporter~~Transporters that ~~processes~~process or ~~re-fines~~re-refine used
 887 oil, except as provided in Section 739.141, ~~must~~shall also comply with
 888 Subpart F of this Part;
 889

890 3) ~~A transporter~~Transporters that ~~burns~~burn off-specification used oil for
 891 energy recovery ~~must~~shall also comply with Subpart G of this Part;
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- 893 4) ~~A transporter~~Transporters that ~~directs~~direct shipments of off-specification
 894 used oil from ~~its~~their facility to a used oil burner or first ~~claim~~claim that
 895 used oil that is to be burned for energy recovery meets the used oil fuel
 896 specifications set forth in Section 739.111 ~~must~~shall also comply with
 897 Subpart H of this Part; and
- 898
- 899 5) ~~A transporter~~Transporters that ~~disposes~~dispose of used oil, including the
 900 use of used oil as a dust suppressant, ~~must~~shall also comply with Subpart I
 901 of this Part.
- 902

(Source: Amended at 28 Ill. Reg. _____, effective _____)

903
904 **Section 739.141 Restrictions on Transportertransporters that Are Not Also Processorsare**
906 **not also processors**

- 907
- 908 a) ~~A used oil transporter~~Used oil transporters may consolidate or aggregate loads of
 909 used oil for purposes of transportation. However, except as provided in
 910 subsection (b) of this Section, ~~a used oil transporter~~used oil transporters may not
 911 process used oil unless they also comply with the requirements for processors in
 912 Subpart F of this Part.
- 913
- 914 b) ~~A transporter~~Transporters may conduct incidental processing operations that
 915 occur in the normal course of used oil transportation (e.g., settling and water
 916 separation), but that are not designed to produce (or make more amenable for
 917 production of) used oil derived products unless ~~it~~they also ~~complies~~comply with
 918 the processor requirements in Subpart F of this Part.
- 919
- 920 c) ~~A transporter~~Transporters of used oil that is removed from oil-bearing electrical
 921 transformers and turbines and which is filtered by the transporter or at a transfer
 922 facility prior to being returned to its original use ~~is~~are not subject to the processor
 923 and re-refiner requirements in ~~Subpart F of this Part~~739.Subpart F.
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925 (Source: Amended at 28 Ill. Reg. _____, effective _____)

926
927 **Section 739.142 Notification**

- 928
- 929 a) Identification numbers. A used oil transporter that has not previously complied
 930 with the notification requirements of RCRA Section 3010 ~~must~~shall comply with
 931 these requirements and obtain a ~~USEPA~~U.S. EPA identification number pursuant
 932 to RCRA Section 3010 and an Illinois special waste identification number.
- 933
- 934 b) Mechanics of notification.
- 935

- 936 1) A used oil transporter that has not received a ~~USEPA U.S. EPA~~
937 identification number may obtain one by notifying ~~USEPA U.S. EPA~~
938 Region ~~5V~~ of its used oil activity by submitting either of the following:
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940 A) A completed ~~USEPA U.S. EPA~~ Form 8700-12 (To obtain ordering
941 information for ~~USEPA U.S. EPA~~ Form 8700-12 call the
942 RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or
943
944 B) A letter requesting a ~~USEPA U.S. EPA~~ identification number.
945 (Call the RCRA/Superfund Hotline to determine where to send a
946 letter requesting a ~~USEPA U.S. EPA~~ identification number.) The
947 letter should include the following information:
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949 i) The transporter company name;
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951 ii) The owner of the transporter company;
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953 iii) The mailing address for the transporter;
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955 iv) The name and telephone number for the transporter point of
956 contact;
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958 v) The type of transport activity (i.e., transport only, transport
959 and transfer facility, or transfer facility only);
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961 vi) The location of all transfer facilities at which used oil is
962 stored;
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964 vii) The name and telephone number for a contact at each
965 transfer facility.
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- 967 2) A used oil transporter that has not received an Illinois special waste
968 identification number may obtain one pursuant to 35 Ill. Adm. Code 809
969 by contacting the Agency at the following address: Division of Land
970 Pollution Control, Illinois EPA, 1021 North Grand Avenue, 2200 Churchill
971 Road, Springfield, Illinois 62794-9276 ~~62706~~ (telephone: 217-782-6761).
972

973 (Source: Amended at 28 Ill. Reg. _____, effective _____)
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975 **Section 739.143 Used Oil Transportation**~~oil transportation~~
976

- 977 a) Deliveries. A used oil transporter ~~must~~shall deliver all used oil received to one of
978 the following:

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- 1) Another used oil transporter, provided that the transporter has obtained a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number;
 - 2) A used oil processing facility that has obtained a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number;
 - 3) An off-specification used oil burner facility that has obtained a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number; or
 - 4) An on-specification used oil burner facility.
- b) U.S. DOT requirements. A used oil transporter must~~shall~~ comply with all applicable requirements under the U.S. Department of Transportation in 49 CFR ~~parts~~ 171 through 180. A person transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 must~~shall~~ comply with all applicable U.S. Department of Transportation Hazardous Materials Regulations in 49 CFR ~~Parts~~ 171 through 180.
- c) Used oil discharges.
- 1) In the event of a discharge of used oil during transportation, the transporter must~~shall~~ take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).
 - 2) If a discharge of used oil occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by a transporter that does not have a USEPA~~U.S. EPA~~ identification number and an Illinois special waste identification number.
 - 3) An air, rail, highway, or water transporter that has discharged used oil must do the following~~shall~~:
 - A) Give notice, if required by federal 49 CFR 171.15 to the National Response Center (800-424-8802 or 202-426-2675); and
 - B) Report in writing as required by federal 49 CFR 171.16 to the

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Director, Office of Hazardous Materials Regulations, Materials
Transportation Bureau, Department of Transportation,
Washington, DC 20590.

- 4) A water transporter that has discharged used oil ~~must~~shall give notice as required by federal 33 CFR 153.203.
- 5) A transporter ~~must~~shall clean up any used oil discharged that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.144 Rebuttable ~~Presumption~~presumption for Used Oil~~used oil~~

- a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the used oil transporter ~~must~~shall determine whether the total halogen content of used oil being transporter or stored at a transfer facility is above or below 1,000 ppm.
- b) The transporter ~~must~~shall make this determination by the following means:
 - 1) Testing the used oil; or
 - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721~~Subpart D~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111~~Edition III~~, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721~~Appendix H~~). U.S. EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. (202) 783-3238 (document number 955-001-00000-1).
 - 1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling

1065 arrangement as described in Section 739.124(c), to reclaim metalworking
 1066 oils and fluids. The presumption does apply to metalworking oils and
 1067 fluids if such oils and fluids are recycled in any other manner, or disposed.
 1068

1069 2) The rebuttable presumption does not apply to used oils contaminated with
 1070 chlorofluorocarbons (CFCs) removed from refrigeration units if the CFC
 1071 are destined for reclamation. The rebuttable presumption does apply to
 1072 used oils contaminated with CFCs that have been mixed with used oil
 1073 from sources other than refrigeration units.
 1074

1075 d) Record retention. Records of analyses conducted or information used to comply
 1076 with subsections (a), (b), and (c) of this Section must be maintained by the
 1077 transporter for at least three years.
 1078

1079 (Source: Amended at 28 Ill. Reg. _____, effective _____)
 1080

1081
 1082 **Section 739.145 Used Oil Storage ~~oil-storage at Transfer Facilities~~ transfer facilities**
 1083

1084 A used oil transporter is subject to all applicable Spill Prevention, Control and Countermeasures
 1085 (40 CFR 112) in addition to the requirements of this Subpart E. A used oil transporter is also
 1086 subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in
 1087 underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in
 1088 addition to the requirements of this Subpart.
 1089

1090 a) Applicability. This Section applies to used oil transfer facilities. Used oil transfer
 1091 facilities are transportation-related ~~transportation-related~~ facilities including
 1092 loading docks, parking areas, storage areas, and other areas where shipments of
 1093 used oil are held for more than 24 hours during the normal course of
 1094 transportation and not longer than 35 days. A transfer facility ~~Transfer facilities~~
 1095 that store used oil for more than 35 days are subject to regulation under Subpart F.
 1096

1097 b) Storage units. An owner or operator ~~Owners or operators of a~~ used oil transfer
 1098 facility ~~facilities~~ may not store used oil in units other than tanks, containers, or
 1099 units subject to regulation under 35 Ill. Adm. Code 724 or 725.
 1100

1101 c) Condition of units. The following must be true of containers ~~Containers and~~
 1102 aboveground tanks used to store used oil at a transfer facility ~~facilities must be:~~
 1103

1104 1) The containers must be in ~~In~~ good condition (no severe rusting, apparent
 1105 structural defects or deterioration); and
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1107 2) The containers may not be ~~Not~~ leaking (no visible leaks).

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

- 1151 f) Secondary containment for new aboveground tanks. New aboveground tanks
 1152 used to store used oil at a transfer ~~facility~~facilities must be equipped with a
 1153 secondary containment system.
 1154
- 1155 1) The secondary containment system must consist of the following, at a
 1156 minimum:
 1157
- 1158 A) Both of the following:
 1159
- 1160 i) Dikes, berms, or retaining walls; and
 1161
 1162 ii) A floor. The floor must cover the entire area within the
 1163 dike, berm, or retaining wall; or
 1164
- 1165 B) An equivalent secondary containment system.
 1166
- 1167 2) The entire containment system, including walls and floors, must be
 1168 sufficiently impervious to used oil to prevent any used oil released into the
 1169 containment system from migrating out of the system to the soil,
 1170 groundwater, or surface water.
 1171
- 1172 g) Labels.
 1173
- 1174 1) Containers and aboveground tanks used to store used oil at transfer
 1175 facilities must be labeled or marked clearly with the words "Used Oil."
 1176
- 1177 2) Fill pipes used to transfer used oil into underground storage tanks at
 1178 transfer facilities must be labeled or marked clearly with the words "Used
 1179 Oil."
 1180
- 1181 h) Response to releases. Upon detection of a release of used oil to the environment
 1182 that is not subject to the federal requirements of 40 CFR 280, Subpart F and
 1183 which has occurred after October 4, 1996, an owner or operator of a transfer
 1184 facility ~~must~~shall perform the following cleanup steps:
 1185 BOARD NOTE: Corresponding 40 CFR 279.45(h) applies to releases that
 1186 "occurred after the effective date of the authorized used oil program for the
 1187 ~~state~~State in which the release is located." The Board adopted the used oil
 1188 standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993.
 1189 USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996),
 1190 effective October 4, 1996. The Board has interpreted "the effective date of the
 1191 authorized used oil program" to mean the October 4, 1996 date of federal
 1192 authorization of the Illinois program, and we substituted that date for the federal
 1193 effective date language. Had USEPA written something like "the effective date of

1194 the used oil program in the authorized ~~state~~State in which the release is located,"
1195 the Board would have used the November 22, 1993 effective date of the Illinois
1196 used oil standards.

- 1197
- 1198 1) Stop the release;
- 1199
- 1200 2) Contain the released used oil;
- 1201
- 1202 3) Properly clean up and manage the released used oil and other materials;
- 1203 and
- 1204
- 1205 4) If necessary, repair or replace any leaking used oil storage containers or
- 1206 tanks prior to returning them to service.
- 1207

1208 (Source: Amended at 28 Ill. Reg. _____, effective _____)

1209
1210 **Section 739.146 Tracking**

- 1211
- 1212 a) Acceptance. ~~A used oil transporter must~~Used oil transporters shall keep a record
- 1213 of each used oil shipment accepted for transport. Records for each shipment must
- 1214 include the following:
- 1215
- 1216 1) The name and address of the generator, transporter, or processor that
- 1217 provided the used oil for transport;
- 1218
- 1219 2) The ~~USEPA~~U.S. EPA identification number and Illinois special waste
- 1220 identification number (if applicable) of the generator, transporter, or
- 1221 processor that provided the used oil for transport;
- 1222
- 1223 3) The quantity of used oil accepted;
- 1224
- 1225 4) The date of acceptance; and
- 1226
- 1227 5) The signature.
- 1228
- 1229 A) Except as provided in subsection (a)(5)(B) of this Sectionbelow,
- 1230 the signature, dated upon receipt of the used oil, of a representative
- 1231 of the generator, transporter, or processor or re-refiner that
- 1232 provided the used oil for transport.
- 1233
- 1234 B) An intermediate rail transporter is not required to sign the record of
- 1235 acceptance.
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- b) Deliveries. ~~A used oil transporter must~~Used oil transporters shall keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:
 - 1) The name and address of the receiving facility or transporter;
 - 2) The ~~USEPA~~U.S. EPA identification number and Illinois special waste identification number of the receiving facility or transporter;
 - 3) The quantity of used oil delivered;
 - 4) The date of delivery;
 - 5) The signature.
 - A) Except as provided in subsection (b)(5)(B) of this Sectionbelow, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.
 - B) An intermediate rail transporter is not required to sign the record of acceptance.
- c) Exports of used oil. ~~A used oil transporter must~~Used oil transporters shall maintain the records described in subsections (b)(1) through (b)(4) of this Section for each shipment of used oil exported to any foreign country.
- d) Record retention. The records described in subsections (a), (b), and (c) of this Section must be maintained for at least three years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.147 Management of Residuesresidues

Transporters who generate residues from the storage or transport of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section 739.150 Applicability

- 1280 a) The requirements of this Subpart F apply to owners and operators of facilities that
1281 process used oil. Processing means chemical or physical operations designed to
1282 produce from used oil, or to make used oil more amenable for production of, fuel
1283 oils, lubricants, or other used oil-derived products. Processing includes, but is not
1284 limited to the following: blending used oil with virgin petroleum products,
1285 blending used oils to meet the fuel specification, filtration, simple distillation,
1286 chemical or physical separation, and re-refining. The requirements of this
1287 Subpart F do not apply to the following:
1288
- 1289 1) A transporter~~Transporters~~ that conduct~~conduct~~ incidental processing
1290 operations that occur during the normal course of transportation, as
1291 provided in Section 739.141; or
1292
 - 1293 2) A burner~~Burners~~ that conduct~~conduct~~ incidental processing operations
1294 that occur during the normal course of used oil management prior to
1295 burning, as provided in Section 739.161(b).
1296
- 1297 b) Other applicable provisions. A used~~Used~~ oil processor that conducts~~processes~~
1298 ~~who conduct~~ the following activities are also subject to the requirements of other
1299 applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5)
1300 of this Section.
1301
- 1302 1) A processor that generates~~Processors who generate~~ used oil must also
1303 comply with Subpart C of this Part;
1304
 - 1305 2) A processor that transports~~Processors who transport~~ used oil must also
1306 comply with Subpart E of this Part;
1307
 - 1308 3) Except as provided in subsections (b)(3)(A) and (b)(3)(B) of this Section,
1309 a processor that burns ~~processors who burn~~ off-specification used oil for
1310 energy recovery must also comply with Subpart G of this Part. Processors
1311 burning used oil for energy recovery under the following conditions are
1312 not subject to Subpart G of this Part:
1313
 - 1314 A) The used oil is burned in an on-site space heater that meets the
1315 requirements of Section 739.123; or
1316
 - 1317 B) The used oil is burned for purposes of processing used oil, which is
1318 considered burning incidentally to used oil processing;
1319 - 1320 4) A processor that directs~~Processors who direct~~ shipments of off-
1321 specification used oil from their facility to a used oil burner or first claim
1322 that used oil that is to be burned for energy recovery meets the used oil

1323 fuel specifications set forth in Section 739.111 must also comply with
1324 Subpart H of this Part; and

1325
1326 5) ~~A processors that disposes~~Processors who dispose of used oil, including
1327 the use of used oil as a dust suppressant, also must comply with Subpart I
1328 of this Part.

1329
1330 (Source: Amended at 28 Ill. Reg. _____, effective _____)
1331

1332 **Section 739.151 Notification**
1333

1334 a) Identification numbers. A used oil processor or re-refiner that has not previously
1335 complied with the notification requirements of RCRA Section 3010 ~~must~~shall and
1336 obtain a ~~USEPA~~U.S. EPA identification number pursuant to RCRA Section 3010
1337 and an Illinois special waste identification number.
1338

1339 b) Mechanics of notification.
1340

1341 1) A used oil processor or re-refiner that has not received a ~~USEPA~~U.S. EPA
1342 identification number may obtain one by notifying ~~USEPA~~U.S. EPA
1343 Region ~~5~~ of its used oil activity by submitting either of the following:
1344

1345 A) A completed ~~USEPA~~U.S. EPA Form 8700-12 (To obtain ordering
1346 information for ~~USEPA~~U.S. EPA Form 8700-12 call the
1347 RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or
1348

1349 B) A letter requesting a ~~USEPA~~U.S. EPA identification number.
1350 (Call the RCRA/Superfund Hotline to determine where to send a
1351 letter requesting a ~~USEPA~~U.S. EPA identification number.) The
1352 letter should include the following information:
1353

1354 i) The processor or re-refiner company name;

1355 ii) The owner of the processor or re-refiner company;

1356 iii) The mailing address for the processor or re-refiner;

1357 iv) The name and telephone number for the processor or re-
1358 refiner point of contact;

1359 v) The type of transport activity (i.e., transport only, transport
1360 and transfer facility, or transfer facility only);
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- 1366 vi) The location of all transfer facilities at which used oil is
- 1367 stored;
- 1368
- 1369 vii) The name and telephone number for a contact at each
- 1370 transfer facility.
- 1371

- 1372 2) A used oil processor or re-refiner that has not received an Illinois special
- 1373 waste identification number may obtain one by contacting the Agency at
- 1374 the following address: Division of Land Pollution Control, Illinois EPA,
- 1375 1021 North Grand Avenue, 2200 Churchill Road, Springfield, Illinois
- 1376 62794-927662706 (telephone: 217-782-6761).
- 1377

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.152 General Facility Standards ~~facility standards~~

- 1381
- 1382 a) Preparedness and prevention. ~~An owner or operator~~ Owners and operators of a
- 1383 used oil processing or re-refining facility must ~~processors and re-refiners facilities~~
- 1384 ~~shall~~ comply with the following requirements:
- 1385
- 1386 1) Maintenance and operation of a facility. All facilities ~~Facilities~~ must be
- 1387 maintained and operated to minimize the possibility of a fire, explosion, or
- 1388 any unplanned sudden or non-sudden release of used oil to air, soil, or
- 1389 surface water ~~that~~ ~~which~~ could threaten human health or the environment.
- 1390
- 1391 2) Required equipment. All facilities must be equipped with the following,
- 1392 unless none of the hazards posed by used oil handled at the facility could
- 1393 require a particular kind of equipment specified in subsections (a)(2)(A)
- 1394 through (a)(2)(D) of this Section:
- 1395
- 1396 A) An internal communications or alarm system capable of providing
- 1397 immediate emergency instruction (voice or signal) to facility
- 1398 personnel;
- 1399
- 1400 B) A device, such as a telephone (immediately available at the scene
- 1401 of operations) or a hand-held two-way radio, capable of
- 1402 summoning emergency assistance from local police departments,
- 1403 fire departments, or State or local emergency response teams;
- 1404
- 1405 C) Portable fire extinguishers, fire control equipment (including
- 1406 special extinguishing equipment, such as that using foam, inert gas,
- 1407 or dry chemicals), spill control equipment, and decontamination
- 1408 equipment; and

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- D) Water at adequate volume and pressure to supply water hose streams, ~~or~~ foam producing equipment, ~~or~~ automatic sprinklers, or water spray systems.

- 3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

- 4) Access to communications or alarm system.
 - A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2) of this Section.

 - B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2) of this Section.

- 5) Required aisle space. The owner or operator ~~must~~shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

- 6) Arrangements with local authorities.
 - A) The owner or operator ~~must~~shall attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:
 - i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated

- 1452 hazards, places where facility personnel would normally be
1453 working, entrances to roads inside the facility, and possible
1454 evacuation routes;
- 1455
- 1456 ii) Where more than one police and fire department might
1457 respond to an emergency, agreements designating primary
1458 emergency authority to a specific police and a specific fire
1459 department, and agreements with any others to provide
1460 support to the primary emergency authority;
- 1461
- 1462 iii) Agreements with State emergency response teams,
1463 emergency response contractors, and equipment suppliers;
1464 and
- 1465
- 1466 iv) Arrangements to familiarize local hospitals with the
1467 properties of used oil handled at the facility and the types
1468 of injuries or illnesses ~~that~~which could result from fires,
1469 explosions, or releases at the facility.
- 1470
- 1471 B) Where State or local authorities decline to enter into such
1472 arrangements, the owner or operator ~~must~~shall document the
1473 refusal in the operating record.
- 1474
- 1475 b) Contingency plan and emergency procedures. ~~An owner or operator~~Owners and
1476 ~~operators of a used oil processing or refining facility must~~processors and re-
1477 ~~refiners facilities shall~~ comply with the following requirements:
- 1478
- 1479 1) Purpose and implementation of contingency plan.
- 1480
- 1481 A) Each owner or operator ~~must~~shall have a contingency plan for the
1482 facility. The contingency plan must be designed to minimize
1483 hazards to human health or the environment from fires, explosions,
1484 or any unplanned sudden or non-sudden release of used oil to air,
1485 soil, or surface water.
- 1486
- 1487 B) The provisions of the plan must be carried out immediately
1488 whenever there is a fire, explosion, or release of used oil ~~that~~which
1489 could threaten human health or the environment.
- 1490
- 1491 2) Content of contingency plan.
- 1492
- 1493 A) The contingency plan must describe the actions facility personnel
1494 ~~must~~shall take to comply with subsections (b)(1) and (b)(6) of this

- 1495 Section in response to fires, explosions, or any unplanned sudden
 1496 or non-sudden release of used oil to air, soil, or surface water at the
 1497 facility.
- 1498
- 1499 B) If the owner or operator has already prepared a Spill Prevention
 1500 Control and Countermeasures (SPCC) Plan in accordance with
 1501 federal 40 CFR 112, or 40 CFR 300, or some other emergency or
 1502 contingency plan, the owner or operator need only amend that plan
 1503 to incorporate used oil management provisions that are sufficient
 1504 to comply with the requirements of this Part.
 1505
- 1506 C) The plan must describe arrangements agreed to by local police
 1507 departments, fire departments, hospitals, contractors, and State and
 1508 local emergency response teams to coordinate emergency services,
 1509 pursuant to subsection (a)(6) of this Section.
 1510
- 1511 D) The plan must list names, addresses, and phone numbers (office
 1512 and home) of all persons qualified to act as emergency coordinator
 1513 (see subsection (b)(5) of this Section), and this list must be kept up
 1514 to date. Where more than one person is listed, one must be named
 1515 as primary emergency coordinator and others must be listed in the
 1516 order in which they will assume responsibility as alternates.
 1517
- 1518 E) The plan must include a list of all emergency equipment at the
 1519 facility (such as fire extinguishing systems, spill control
 1520 equipment, communications and alarm systems (internal and
 1521 external), and decontamination equipment), where this equipment
 1522 is required. This list must be kept up to date. In addition, the plan
 1523 must include the location and a physical description of each item
 1524 on the list, and a brief outline of its capabilities.
 1525
- 1526 F) The plan must include an evacuation plan for facility personnel
 1527 where there is a possibility that evacuation could be necessary.
 1528 This plan must describe ~~signals~~ signal(s) to be used to begin
 1529 evacuation, evacuation routes, and alternate evacuation routes (in
 1530 cases where the primary routes could be blocked by releases of
 1531 used oil or fires).
 1532
- 1533 3) Copies of contingency plan. ~~Copies~~ A copy of the contingency plan and
 1534 all revisions to the plan must be disposed of as follows:
 1535
- 1536 A) Maintained at the facility; and
 1537

- 1538 B) Submitted to all local police departments, fire departments,
1539 hospitals, and State and local emergency response teams that may
1540 be called upon to provide emergency services.
1541
- 1542 4) Amendment of contingency plan. The contingency plan must be
1543 reviewed, and immediately amended, if necessary, whenever one of the
1544 following occurs:
1545
- 1546 A) Applicable regulations are revised;
1547
1548 B) The plan fails in an emergency;
1549
1550 C) The facility changes – in its design, construction, operation,
1551 maintenance, or other circumstances in a way that materially
1552 increases the potential for fires, explosions, or releases of used oil,
1553 or changes the response necessary in an emergency;
1554
1555 D) The list of emergency coordinators changes; or
1556
1557 E) The list of emergency equipment changes.
1558
- 1559 5) Emergency coordinator. At all times, there must be at least one employee
1560 either on the facility premises or on call (i.e., available to respond to an
1561 emergency by reaching the facility within a short period of time) with the
1562 responsibility for coordinating all emergency response measures. This
1563 emergency coordinator ~~must~~ shall be thoroughly familiar with all aspects
1564 of the facility's contingency plan, all operations and activities at the
1565 facility, the location and characteristic of used oil handled, the location of
1566 all records within the facility, and facility layout. In addition, this person
1567 must have the authority to commit the resources needed to carry out the
1568 contingency plan.
1569
- 1570 BOARD NOTE: ~~USEPA~~ U.S. EPA cited the following as guidance: "The
1571 emergency coordinator's responsibilities are more fully spelled out in
1572 ~~(subsection (b)(6) of this Section below)~~. Applicable responsibilities for
1573 the emergency coordinator vary, depending on factors such as type and
1574 variety of used oil handled by the facility, and type and complexity of the
1575 facility."
1576
- 1577 6) Emergency procedures.
1578
- 1579 A) Whenever there is an imminent or actual emergency situation, the
1580 emergency coordinator (or the designee when the emergency

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coordinator is on call) ~~must~~shall immediately do the following:

- i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
- ii) Notify appropriate State or local agencies with designated response roles if their help is needed.

B) Whenever there is a release, fire, or explosion, the emergency coordinator ~~must~~shall immediately identify the character, exact source, amount, and a real extent of any released materials. He or she may do this by observation or review of facility records of manifests and, if necessary, by chemical analysts.

C) Concurrently, the emergency coordinator ~~must~~shall assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions).

D) If the emergency coordinator determines that the facility has had a release, fire, or explosion ~~that~~which could threaten human health, or the environment, outside the facility, he or she ~~must~~shall report his findings as follows:

- i) If his assessment indicated that evacuation of local areas may be advisable, he or she ~~must~~shall immediately notify appropriate local authorities. He or she ~~must~~shall be available to help appropriate officials decide whether local areas should be evacuated; and
- ii) He ~~must~~shall immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: ~~name~~Name and telephone number of reporter; ~~name~~Name and address of facility; ~~time~~Time and type of incident (e.g., release, fire); ~~name~~Name and quantity of

~~materials~~material(s) involved, to the extent known; ~~the~~The extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.

- E) During an emergency, the emergency coordinator must~~shall~~ take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.
- F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must~~shall~~ monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
- G) Immediately after an emergency, the emergency coordinator must~~shall~~ provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.
- H) The emergency coordinator must~~shall~~ ensure that the following occur, in the affected areas~~area(s)~~ of the facility:
 - i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and
 - ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
 - ~~iii)~~ The owner or operator must~~shall~~ notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) of this Section before operations are resumed in the affected areas~~area(s)~~ of the facility.
- I) The owner or operator must~~shall~~ note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it must~~shall~~ submit a written report on the incident to USEPA Region 5~~the Regional Administrator~~. The report must include the

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following:

- i) The name, address, and telephone number of the owner or operator;
- ii) The name, address, and telephone number of the facility;
- iii) The date, time, and type of incident (e.g., fire, explosion);
- iv) The name and quantity of ~~materials~~material(s) involved;
- v) The extent of injuries, if any;
- vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- vii) The estimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.153 Rebuttable ~~Presumption~~presumption for Used Oilused oil

- a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the owner or operator of a used oil processing facility ~~must~~shall determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.
- b) The owner or operator ~~must~~shall make this determination by the following means:
 - 1) Testing the used oil; or
 - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721.~~Subpart D~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111~~Edition III~~ to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code

1710 721-Appendix H). U.S. EPA Publication SW-846, Third Edition, is available
 1711 from the Government Printing Office, Superintendent of Documents, PO Box
 1712 371954, Pittsburgh, PA 15250-7954. (202) 783-3238 (document number 955-
 1713 001-00000-1).

- 1714
- 1715 1) The rebuttable presumption does not apply to metalworking oils and fluids
 1716 containing chlorinated paraffins, if they are processed, through a tolling
 1717 arrangement as described in Section 739.124(c), to reclaim metalworking
 1718 oils and fluids. The presumption does apply to metalworking oils and
 1719 fluids if such oils and fluids are recycled in any other manner, or disposed.
 1720
- 1721 2) The rebuttable presumption does not apply to used oils contaminated with
 1722 chlorofluorocarbons (CFCs) removed from refrigeration units if the CFC
 1723 are destined for reclamation. The rebuttable presumption does apply to
 1724 used oils contaminated with CFCs that have been mixed with used oil
 1725 from sources other than refrigeration units.
 1726

1727 (Source: Amended at 28 Ill. Reg. _____, effective _____)
 1728

1729 **Section 739.154 Used Oil Managementoil-management**
 1730

1731 A used oil processor is subject to all applicable Spill Prevention, Control and Countermeasures
 1732 (40 CFR 112) in addition to the requirements of this Subpart F. A used oil processor or re-
 1733 refiner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for
 1734 used oil stored in underground tanks whether or not the used oil exhibits any characteristics of
 1735 hazardous waste, in addition to the requirements of this Subpart F.
 1736

- 1737 a) Management units. ~~A used Used-oil processor mayprocessors shall~~ not store used
 1738 oil in units other than tanks, containers, or units subject to regulation under 35 Ill.
 1739 Adm. Code 724 or 725.
 1740
- 1741 b) Condition of units. ~~The following must be true of containersContainers and~~
 1742 ~~aboveground tanks used to store or process used oil at a processing~~
 1743 ~~facilityfacilities must be:~~
 1744
- 1745 1) The containers must be in good condition (no severe rusting, apparent
 1746 structural defects or deterioration); and
 1747
- 1748 2) The containers may not beNot leaking (no visible leaks).
 1749
- 1750 c) Secondary containment for containers. Containers used to store or process used
 1751 oil at processing and re-refining facilities must be equipped with a secondary
 1752 containment system.

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

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- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
 - B) An equivalent secondary containment system.

- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

- f) Labels.
 - 1) Containers and aboveground tanks used to store used oil at processing facilities must be labeled or marked clearly with the words "Used Oil."
 - 2) Fill pipes used to transfer used oil into underground storage tanks at processing facilities must be labeled or marked clearly with the words "Used Oil."

- g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, a processor must~~shall~~ perform the following cleanup steps:

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

1839 used oil standards.

- 1840
- 1841 1) Stop the release;
- 1842
- 1843 2) Contain the released used oil;
- 1844
- 1845 3) Properly clean up and manage the released used oil and other materials;
- 1846 and
- 1847
- 1848 4) If necessary, repair or replace any leaking used oil storage containers or
- 1849 tanks prior to returning them to service.
- 1850

1851 h) Closure.

- 1852
- 1853 1) Aboveground tanks. ~~An owner or operator~~ ~~Owners and operators that~~
1854 ~~stores store or processes process~~ used oil in aboveground tanks must ~~shall~~
1855 comply with the following requirements:
- 1856
- 1857 A) At closure of a tank system, the owner or operator must ~~shall~~
1858 remove or decontaminate used oil residues in tanks, contaminated
1859 containment system components, contaminated soils, and
1860 structures and equipment contaminated with used oil, and manage
1861 them as hazardous waste, unless the materials are not hazardous
1862 waste under this chapter.
- 1863
- 1864 B) If the owner or operator demonstrates that not all contaminated
1865 soils can be practicably removed or decontaminated as required in
1866 subsection (h)(1)(A) of this Section, then the owner or operator
1867 must ~~shall~~ close the tank system and perform post-closure care in
1868 accordance with the closure and post-closure care requirements
1869 that apply to hazardous waste landfills (35 Ill. Adm. Code
1870 725.410).
- 1871
- 1872 2) Containers. ~~An owner or operator~~ ~~Owners and operators that~~ ~~stores~~ ~~store~~
1873 used oil in containers must ~~shall~~ comply with the following requirements:
- 1874
- 1875 A) At closure, containers holding used oils or residues of used oil
1876 must be removed from the site;
- 1877
- 1878 B) The owner or operator must ~~shall~~ remove or decontaminate used oil
1879 residues, contaminated containment system components,
1880 contaminated soils, and structures and equipment contaminated
1881 with used oil, and manage them as hazardous waste, unless the

1882 materials are not hazardous waste 35 Ill. Adm. Code 721.

1883
 1884 (Source: Amended at 28 Ill. Reg. _____, effective _____)

1885
 1886 **Section 739.155 Analysis plan**

1887
 1888 ~~An owner or operator~~ ~~Owners or operators~~ of a used oil processing ~~and~~ re-refining
 1889 ~~facility~~ ~~facilities~~ must develop and follow a written analysis plan describing the procedures that
 1890 will be used to comply with the analysis requirements of Section 739.153 and, if applicable,
 1891 Section 739.172. The owner or operator must keep the plan at the facility.

1892
 1893 a) Rebuttable presumption for used oil in Section 739.153. At minimum, the plan
 1894 must specify the following:

1895
 1896 1) Whether sample analyses or knowledge of the halogen content of the used
 1897 oil will be used to make this determination.

1898
 1899 2) If sample analyses are used to make this determination, the following
 1900 requirements must be fulfilled:

1901
 1902 A) The sampling method used to obtain representative samples to be
 1903 analyzed. A representative sample may be obtained using either of
 1904 the following:

1905
 1906 i) One of the sampling methods in Appendix I of 35 Ill. Adm.
 1907 Code 721. ~~Appendix I;~~ or

1908
 1909 ii) A method shown to be equivalent under 35 Ill. Adm. Code
 1910 720.120 and 720.121;

1911
 1912 B) The frequency of sampling to be performed, and whether the
 1913 analysis will be performed on-site or off-site; and

1914
 1915 C) The methods used to analyze used oil for the parameters specified
 1916 in Section 739.153; and

1917
 1918 3) The type of information that will be used to determine the halogen content
 1919 of the used oil.

1920
 1921 b) On-specification used oil fuel in Section 739.172. At a minimum, the plan must
 1922 specify the following if Section 739.172 is applicable:

1923
 1924 1) Whether sample analyses or other information will be used to make this

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determination;

2) If sample analyses are used to make this determination, the following requirements must be fulfilled:

A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either of the following:

- i) One of the sampling methods in Appendix I of 35 Ill. Adm. Code 721.~~Appendix I;~~ or
- ii) A method shown to be equivalent under 35 Ill. Adm. Code 720.120 and 720.121;

B) Whether used oil will be sampled and analyzed prior to or after any processing;

C) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

D) The methods used to analyze used oil for the parameters specified in Section 739.172; and

3) The type of information that will be used to make the on-specification used oil fuel determination.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.156 Tracking

a) Acceptance. ~~A used~~Used oil processor must~~processors shall~~ keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

- 1) The name and address of the transporter that delivered the used oil to the processor;
- 2) The name and address of the generator or processor from whom the used oil was sent for processing;
- 3) The ~~USEPA~~U.S. EPA identification number and Illinois special waste

1968 identification number of the transporter that delivered the used oil to the
1969 processor;

1970
1971 4) The ~~USEPA~~~~U.S. EPA~~ identification number and Illinois special waste
1972 identification number (if applicable) of the generator or processor from
1973 whom the used oil was sent for processing;

1974
1975 5) The quantity of used oil accepted; and

1976
1977 6) The date of acceptance.

1978
1979 b) Deliveries. ~~A used~~Used oil processor must~~processors shall~~ keep a record of each
1980 shipment of used oil that is delivered to another used oil burner, processor, or
1981 disposal facility. These records may take the form of a log, invoice, manifest, bill
1982 of lading or other shipping documents. Records of each delivery must include the
1983 following information:

1984
1985 1) The name and address of the transporter that delivers the used oil to the
1986 burner, processor, or disposal facility;

1987
1988 2) The name and address of the burner, processor or disposal facility that will
1989 receive the used oil;

1990
1991 3) The ~~USEPA~~~~U.S. EPA~~ identification number and Illinois special waste
1992 identification number of the transporter that delivers the used oil to the
1993 burner, processor or disposal facility;

1994
1995 4) The ~~USEPA~~~~U.S. EPA~~ identification number and Illinois special waste
1996 identification number of the burner, processor, or disposal facility that will
1997 receive the used oil;

1998
1999 5) The quantity of used oil shipped;

2000
2001 6) The date of shipment.

2002
2003 c) Record retention. The records described in subsections (a) and (b) of this
2004 Section~~above~~ must be maintained for at least three years.

2005
2006 (Source: Amended at 28 Ill. Reg. _____, effective _____)

2007
2008 **Section 739.157 Operating Record and Reporting~~record and reporting~~**

2009
2010 a) Operating record.

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- 1) The owner or operator ~~must~~ shall keep a written operating record at the facility.
- 2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility;
 - A) Records and results of used oil analyses performed as described in the analysis plan required under Section 739.155; and
 - B) Summary reports and details of all incidents that require implementation of the contingency plan, ~~as an~~ specified in Section 739.152(b).
- b) Reporting. A used oil processor ~~must~~ shall report to USEPA Region 5~~the Regional Administrator~~, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), the following information concerning used oil activities during the previous calendar year;
 - 1) The ~~USEPA~~U.S. EPA identification number and Illinois special waste identification number, name, and address of the processor;
 - 2) The calendar year covered by the report; and
 - 3) The quantities of used oil accepted for processing and the manner in which the used oil is processed, including the specific processes employed.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.158 Off-Site Shipments of Used Oil~~Off-site shipments of used oil~~

~~A used~~Used oil processor~~s~~ that ~~initiates a shipment~~ initiate shipments of used oil off-site ~~must~~ shall ship the used oil using a used oil transporter that has obtained ~~an~~ USEPAU.S. EPA identification number and Illinois special waste identification number.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.159 Management of Residues~~residues~~

~~An owner or operator that generates~~Owners and operators who generate residues from the storage, processing, or re-finishing of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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

Section 739.160 Applicability

- a) General. The requirements of this Subpart G apply to used oil burners except as specified in subsections (a)(1) and ~~(a)(2)~~(a)2) of this Section. A used oil burner is a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a). Facilities burning used oil for energy recovery under the following conditions are not subject to this Subpart G:
 - 1) The used oil is burned by the generator in an on-site space heater under the provisions of Section 739.123; or
 - 2) The used oil is burned by a processor for purposes of processing used oil, which is considered burning incidentally to used oil processing.

- b) Other applicable provisions. ~~A used oil burner~~burners that ~~conduct~~se~~nduct~~ the following activities ~~is~~are also subject to the requirements of other applicable provisions of this Part as indicated below.
 - 1) ~~A burner~~Burners that ~~generate~~generate used oil ~~must~~shall also comply with Subpart C of this Part;
 - 2) ~~A burner~~Burners that ~~transport~~transport used oil ~~must~~shall also comply with Subpart E of this Part;
 - 3) Except as provided in Section 739.161(b), ~~a burner~~burners that ~~process~~process or ~~re-refines~~re-refine used oil ~~must~~shall also comply with Subpart F of this Part;
 - 4) ~~A burner~~Burners that ~~direct~~direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 ~~must~~shall also comply with Subpart H of this Part; and
 - 5) ~~A burner~~Burners that ~~dispose~~dispose of used oil, including the use of used oil as a dust suppressant, ~~must~~shall comply with Subpart I of this Part.

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.161 Restriction on Burningburning

- a) Off-specification used oil fuel may only be burned for energy recovery in ~~only~~ the following devices:

- 1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;
- 2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:
 - A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;
 - B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
 - C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123; or
- 3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724.~~Subpart O or 35 Ill. Adm. Code 725~~.~~Subpart O.~~

- b) Restrictions.

- 1) With the following exception, a used oil burner~~burners~~ may not process used oil unless ~~it they~~ also complies~~comply~~ with the requirements of Subpart F of this Part.
- 2) A usedUsed oil burner~~burners~~ may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

2140 **Section 739.162 Notification**

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- a) Identification numbers. A used oil burner that has not previously complied with the notification requirements of RCRA Section 3010 ~~must~~ shall comply with these requirements and obtain a ~~USEPA U.S. EPA~~ identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.

- b) Mechanics of notification. A used oil burner that has not received a ~~USEPA U.S. EPA~~ identification number may obtain one by notifying ~~USEPA Region 5 the Regional Administrator of its~~ their used oil activity by submitting either ~~of the following~~:
 - 1) A completed ~~USEPA EPA~~ Form 8700-12 (to ~~to~~ obtain ~~USEPA EPA~~ Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or
 - 2) A letter requesting ~~an USEPA EPA~~ identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting ~~an USEPA EPA~~ identification number. The letter should include the following information:
 - A) The burner company name;
 - B) The owner of the burner company;
 - C) The mailing address for the burner;
 - D) The name and telephone number for the burner point of contact;
 - E) The type of used oil activity; and
 - F) The location of the burner facility.

- c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand Avenue, 2200 Churchill Road, Springfield, Illinois 62794-9276~~62706~~ (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.163 Rebuttable Presumptionpresumption for Used Oilused oil

- 2183 a) To ensure that used oil managed at a used oil burner facility is not hazardous
2184 waste under the rebuttable presumption of Section 739.110(b)(1)(ii), a used oil
2185 burner mustshall determine whether the total halogen content of used oil managed
2186 at the facility is above or below 1,000 ppm.
2187
- 2188 b) The used oil burner mustshall determine if the used oil contains above or below
2189 1,000 ppm total halogens by the following means:
2190
- 2191 1) Testing the used oil;
 - 2192
 - 2193 2) Applying knowledge of the halogen content of the used oil in light of the
2194 materials or processes used; or
 - 2195
 - 2196 3) If the used oil has been received from a processor subject to regulation
2197 under Subpart F of this Part, using information provided by the processor.
2198
- 2199 c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is
2200 presumed to be a hazardous waste because it has been mixed with halogenated
2201 hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721.~~Subpart D~~. The
2202 owner or operator may rebut the presumption by demonstrating that the used oil
2203 does not contain hazardous waste (for example, by using an analytical method
2204 from SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111 ~~Edition~~
2205 ~~III~~, to show that the used oil does not contain significant concentrations of
2206 halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code
2207 721.~~Appendix H~~). ~~U.S. EPA Publication SW-846, Third Edition, is available~~
2208 ~~from the Government Printing Office, Superintendent of Documents, PO Box~~
2209 ~~371954, Pittsburgh, PA 15250-7954. 202-783-3238 (document number 955-001-~~
2210 ~~00000-1).~~
2211
- 2212 1) The rebuttable presumption does not apply to metalworking oils or fluids
2213 containing chlorinated paraffins, if they are processed, through a tolling
2214 arrangement as described in Section 739.124(c), to reclaim metalworking
2215 oils or fluids. The presumption does apply to metalworking oils or fluids if
2216 such oils and fluids are recycled in any other manner, or disposed.
2217
 - 2218 2) The rebuttable presumption does not apply to used oils contaminated with
2219 chlorofluorocarbons (CFCs) removed from refrigeration units where the
2220 CFCs are destined for reclamation. The rebuttable presumption does
2221 apply to used oils contaminated with CFCs that have been mixed with
2222 used oil from sources other than refrigeration units.
2223
- 2224 d) Record retention. Records of analyses conducted or information used to comply
2225 with subsections (a), (b), and (c) of this Section~~above~~ must be maintained by the

2226 burner for at least ~~three~~ years.

2227
 2228 (Source: Amended at 28 Ill. Reg. _____, effective _____)
 2229

2230 **Section 739.164 Used Oil Storageoil-storage**

2231
 2232 A used oil burner is subject to all applicable Spill Prevention, Control and Countermeasures
 2233 (federal 40 CFR 112) in addition to the requirements of this Subpart G. A used oil burner is also
 2234 subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in
 2235 underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in
 2236 addition to the requirements of this Subpart G.

2237
 2238 a) Storage units. ~~A used~~Used oil ~~burner~~burners may not store used oil in units other
 2239 than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724
 2240 or 725.

2241
 2242 b) Condition of units. ~~The following must be true of containers~~Containers and
 2243 aboveground tanks used to store oil at ~~a burner~~ facilityfacilities ~~must be~~.

2244
 2245 1) ~~The containers must be in~~In good condition (no severe rusting, apparent
 2246 structural defects or deterioration); and

2247
 2248 2) ~~The containers may not be~~Not leaking (no visible leaks).

2249
 2250 c) Secondary containment for containers. Containers used to store used oil at ~~a~~
 2251 burner facilityfacilities must be equipped with a secondary containment system.

2252
 2253 1) The secondary containment system must consist of the following, at a
 2254 minimum:

2255
 2256 A) Dikes, berms, or retaining walls; and

2257
 2258 B) A floor. The floor must cover the entire area within the dike,
 2259 berm, or retaining wall.

2260
 2261 2) The entire containment system, including walls and floor, must be
 2262 sufficiently impervious to used oil to prevent any used oil released into the
 2263 containment system from migrating out of the system to the soil,
 2264 groundwater, or surface water.

2265
 2266 d) Secondary containment for existing aboveground tanks. Existing aboveground
 2267 tanks used to store used oil at burner facilities must be equipped with a secondary
 2268 containment system.

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

2312 oil at a burner ~~facility~~facilities must be labeled or marked clearly with the
2313 words "Used Oil."

2314
2315 2) Fill pipes used to transfer used oil into underground storage tanks at
2316 burner facilities must be labeled or marked clearly with the words "Used
2317 Oil."

2318
2319 g) Response to releases. Upon detection of a release of used oil to the environment
2320 that is not subject to the federal requirements of 40 CFR 280, Subpart F and
2321 which has occurred after October 4, 1996, a burner ~~must~~shall perform the
2322 following cleanup steps:

2323
2324 BOARD NOTE: Corresponding 40 CFR 279.64(g) applies to releases that
2325 "occurred after the effective date of the authorized used oil program for the state
2326 State in which the release is located." The Board adopted the used oil standards
2327 in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA
2328 approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective
2329 October 4, 1996. The Board has interpreted "the effective date of the authorized
2330 used oil program" to mean the October 4, 1996 date of federal authorization of the
2331 Illinois program, and we substituted that date for the federal effective date
2332 language. Had USEPA written something like "the effective date of the used oil
2333 program in the authorized stateState in which the release is located," the Board
2334 would have used the November 22, 1993 effective date of the Illinois used oil
2335 standards.

- 2336
2337 1) Stop the release;
2338
2339 2) Contain the released used oil;
2340
2341 3) Properly clean up and manage the released used oil and other materials;
2342 and
2343
2344 4) If necessary, repair or replace any leaking used oil storage containers or
2345 tanks prior to returning them to service.
2346

2347 (Source: Amended at 28 Ill. Reg. _____, effective _____)
2348

2349 **Section 739.165 Tracking**
2350

2351 a) Acceptance. ~~A used~~Used oil burner ~~must~~burners shall keep a record of each used
2352 oil shipment accepted for burning. These records may take the form of a log,
2353 invoice, manifest, bill of lading, or other shipping documents. Records for each
2354 shipment must include the following information:

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- 1) The name and address of the transporter that delivered the used oil to the burner;
 - 2) The name and address of the generator or processor from whom the used oil was sent to the burner;
 - 3) The ~~USEPA~~U.S. EPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the burner;
 - 4) The ~~USEPA~~U.S. EPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent to the burner;
 - 5) The quantity of used oil accepted; and
 - 6) The date of acceptance.
- b) Record retention. The records described in subsection (a) of this Section must be maintained for at least three years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.166 Notices

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

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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Section 739.167 Management of Residues~~residues~~

A burner that generates~~Burners who generate~~ residues from the storage or burning of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section 739.170 Applicability

- a) Any person that conducts either of the following activities is subject to the requirements of this Subpart H:
 - 1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
 - 2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

- b) The following persons are not marketers subject to this Subpart H:
 - 1) A used~~Used oil generator~~~~generators~~, or a transporter~~and transporters~~ that transport~~transport~~ used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from its~~their~~ facility to a used oil burner. However, a processor~~processors~~ that burns~~burn~~ some used oil fuel for purposes of processing is~~are~~ considered to be burning incidentally to processing. Thus, a generator or transporter~~generators and transporters~~ that directs~~direct~~ shipments of off-specification used oil to a processor~~processors~~ that incidentally~~incidentally~~ burns~~burn~~ used oil is~~are~~ not a marketer~~marketers~~ subject to this Subpart H;
 - 2) A person~~Persons~~ that directs~~direct~~ shipments of on-specification used oil and which is~~that are~~ not the first person to claim the oil meets the used oil fuel specifications of Section 739.111.

- c) Any person subject to the requirements of this Subpart H must~~shall~~ also comply with one of the following:
 - 1) Subpart C of this Part – Standards for Used Oil Generators;
 - 2) Subpart E of this Part – Standards for Used Oil Transporters and Transfer

2441 Facilities;

2442

2443 3) Subpart F of this Part – Standards for Used Oil Processors and Re-
2444 refiners; or

2445

2446 4) Subpart G of this Part – Standards for Used Oil Burners that Burn Off-
2447 Specification Used Oil for Energy Recovery.

2448

2449 (Source: Amended at 28 Ill. Reg. _____, effective _____)

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2451 **Section 739.171 Prohibitions**

2452

2453 A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil
2454 burner that fulfills the following conditions:

2455

2456 a) Has a USEPAU.S. EPA identification number and Illinois special waste
2457 identification number; and

2458

2459 b) Burns the used oil in an industrial furnace or boiler identified in Section
2460 739.161(a).

2461

2462 (Source: Amended at 28 Ill. Reg. _____, effective _____)

2463

2464 **Section 739.172 On-Specification Used Oil Fuel~~On-specification used oil fuel~~**

2465

2466 a) Analysis of used oil fuel. A generator, transporter, processor, or burner may
2467 determine that used oil that is to be burned for energy recovery meets the fuel
2468 specifications of Section 739.111 by performing analyses or obtaining copies of
2469 analyses or other information documenting that the used oil fuel meets the
2470 specifications.

2471

2472 b) Record retention. A generator, transporter, processor, or burner that first claims
2473 that used oil that is to be burned for energy recovery meets the specifications for
2474 used oil fuel under this Part ~~must~~shall keep copies of analyses of the used oil (or
2475 other information used to make the determination) for three years.

2476

2477 (Source: Amended at 28 Ill. Reg. _____, effective _____)

2478

2479 **Section 739.173 Notification**

2480

2481 a) A used oil fuel marketer subject to the requirements of this Section that has not
2482 previously complied with the notification requirements of RCRA Section 3010
2483 ~~must~~shall comply with these requirements and obtain a USEPAU.S. EPA

2484 identification number pursuant to RCRA Section 3010 and an Illinois special
2485 waste identification number.

2486
2487 b) A used oil marketer that has not received a ~~USEPA~~^{U.S. EPA} identification
2488 number may obtain one by notifying ~~USEPA Region 5~~^{the Regional Administrator}
2489 of its used oil activity by submitting either of the following:

- 2490 1) A completed ~~USEPA~~^{EPA} Form 8700-12; or
- 2491 2) A letter requesting a ~~USEPA~~^{an EPA} identification number. The letter
- 2492 should include the following information:

 - 2493 A) The marketer company name;
 - 2494 B) The owner of the marketer;
 - 2495 C) The mailing address for the marketer;
 - 2496 D) The name and telephone number for the marketer point of contact;
 - 2497 and
 - 2498 E) The type of used oil activity (i.e., generator directing shipments of
 - 2499 off-specification used oil to a burner).

2500
2501 c) A used oil burner that has not previously obtained an Illinois special waste
2502 identification number may obtain one by contacting the Agency at the following
2503 address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand
2504 Avenue, -2200 Churchill Road, Springfield, Illinois 62794-9276~~62706~~ (telephone:
2505 217-782-6761).

2506 (Source: Amended at 28 Ill. Reg. _____, effective _____)

2507
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2509
2510 **Section 739.174 Tracking**

2511 a) Off-specification used oil delivery. Any used oil fuel marketer that directs a
2512 shipment of off-specification used oil to a burner ~~must~~^{shall} keep a record of each
2513 shipment of used oil to a used oil burner. These records may take the form of a
2514 log, invoice, manifest, bill of lading or other shipping documents. Records for
2515 each shipment must include the following information:

- 2516 1) The name and address of the transporter that delivers the used oil to the
- 2517 burner;

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- 2527 2) The name and address of the burner that will receive the used oil;
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 2529 3) The USEPA identification number and Illinois special waste identification
 2530 number of the transporter that delivers the used oil to the burner;
 2531
 2532 4) The USEPA identification number and Illinois special waste identification
 2533 number of the burner;
 2534
 2535 5) The quantity of used oil shipped; and
 2536
 2537 6) The date of shipment.
 2538
 2539 b) On-specification used oil delivery. A generator, transporter, processor or re-
 2540 refiner, or burner that first claims that used oil that is to be burned for energy
 2541 recovery meets the fuel specifications under Section 739.111 ~~must~~ shall keep a
 2542 record of each shipment of used oil to the facility to which it delivers the used
 2543 oil ~~an on-specification used oil burner~~. Records for each shipment must include
 2544 the following information:
 2545
 2546 1) The name and address of the facility receiving the shipment;
 2547
 2548 2) The quantity of used oil fuel delivered;
 2549
 2550 3) The date of shipment or delivery; and
 2551
 2552 4) A cross-reference to the record of used oil analysis or other information
 2553 used to make the determination that the oil meets the specification as
 2554 required under Section 739.172(a).
 2555
 2556 c) Record retention. The records described in subsections (a) and (b) of this Section
 2557 must be maintained for at least three years.
 2558

2559 (Source: Amended at 28 Ill. Reg. _____, effective _____)
 2560

2561 **Section 739.175 Notices**
 2562

- 2563 a) Certification. Before a used oil generator, transporter, or processor directs the
 2564 first shipment of off-specification used oil fuel to a burner, ~~it~~ he must obtain a one-
 2565 time written and signed notice from the burner certifying the following that:
 2566
 2567 1) That the ~~The~~ burner has notified USEPA ~~EPA~~ stating the location and
 2568 general description of used oil management activities; and
 2569

2570 2) ~~That the~~The burner will burn the off-specification used oil only in an
2571 industrial furnace or boiler identified in Section 739.161(a).

2572
2573 b) Certification retention. The certification described in subsection (a) of this
2574 Sectionabove must be maintained for three years from the date the last shipment
2575 of off-specification used oil is shipped to the burner.

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2577 (Source: Amended at 28 Ill. Reg. _____, effective _____)
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2579 SUBPART I: STANDARDS FOR USE AS A
2580 DUST SUPPRESSANT DISPOSAL OF USED OIL

2581
2582 **Section 739.180 Applicability**
2583

2584 The requirements of this Subpart I apply to all used oils that cannot be recycled and are therefore
2585 being disposed.

2586
2587 (Source: Amended at 28 Ill. Reg. _____, effective _____)
2588

2589 **Section 739.181 Disposal**
2590

2591 a) Disposal of hazardous used oils. ~~Used oil~~oils that isare identified as a hazardous
2592 waste and cannot be recycled in accordance with this Part must be managed in
2593 accordance with the hazardous waste management requirements of 35 Ill. Adm.
2594 Code 703, 720 through 726, and 728.

2595
2596 b) Disposal of nonhazardous used oils. ~~Used oil~~oils that isare not a hazardous
2597 wastewastes and cannot be recycled under this Part must be disposed of in
2598 accordance with the requirements of 35 Ill. Adm. Code 807 through 815 and 40
2599 CFR 257 and 258.

2600
2601 **Section 739.182 Use Asas a Dust Suppressantdust suppressant**
2602

2603 The use of used oil as a dust suppressant is prohibited.
2604

2605 a) ~~The use of used oil as a dust suppressant is prohibited, except when such activity~~
2606 ~~takes place in one of the states listed in subsection (c) of this Section.~~

2607
2608 b) ~~A State may petition (e.g., as part of its authorization petition submitted to EPA~~
2609 ~~under 35 Ill. Adm. Code 721.105 or by a separate submission) EPA to allow the~~
2610 ~~use of used oil (that is not mixed with hazardous waste and does not exhibit a~~
2611 ~~characteristic other than ignitability) as a dust suppressant. The State must show~~
2612 ~~that it has a program in place to prevent the use of used oil and hazardous waste~~

2613 ~~mixtures or used oil exhibiting a characteristic other than ignitability as a dust~~
2614 ~~suppressant. In addition, such programs must minimize the impacts of use as a~~
2615 ~~dust suppressant on the environment.~~

2616
2617 e) ~~This subsection corresponds to 40 CFR 268.182(c) which lists the States with an~~
2618 ~~authorized program for use of used oil as a dust suppressant. This subsection is~~
2619 ~~adopted to retain correlation with the Federal rules.~~

2620
2621 (Source: Amended at 28 Ill. Reg. _____, effective _____)