

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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|                              |   |        |
|------------------------------|---|--------|
| In the Matter of             | ) |        |
|                              | ) |        |
| PROPOSED AMENDMENTS TO       | ) |        |
| SPECIAL WASTE REGULATIONS    | ) | R06-20 |
| CONCERNING USED OIL,         | ) |        |
| 35. Ill. Adm. Code, 808, 809 | ) |        |
|                              | ) |        |

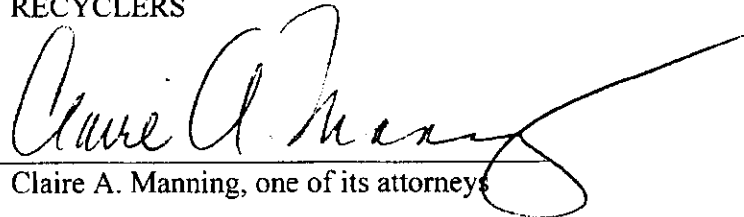
**NOTICE OF FILING**

To: ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on December 13, 2005, we filed the attached **PROPOSED RULE AND STATEMENT OF REASONS and MOTION TO WAIVE SIGNATURE REQUIREMENTS** with Dorothy Gunn, Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

NORA, AN ASSOCIATION OF RESPONSIBLE RECYCLERS

By: 

Claire A. Manning, one of its attorneys

**BROWN, HAY & STEPHENS, LLP**  
 Claire A. Manning, Esq.  
 Registration No. 3124724  
 205 S. Fifth Street, Suite 700  
 P.O. Box 2459  
 Springfield, IL 62705-2459  
 (217) 544-8491  
 (217) 241-3111 (fax)  
[Cmanning@bhslaw.com](mailto:Cmanning@bhslaw.com)

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing PROPOSED RULE AND STATEMENT OF REASONS was filed, electronically, with the Clerk of the Illinois Pollution Control Board, and with copies of such rule proposal being placed in the U.S. mail on December 13 and addressed to:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
Alec Messina  
Chief Legal Counsel  
1021 North Grand Avenue  
P.O. Box 19276  
Springfield, Illinois 62794-9276

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
Stephanie Flowers  
Division of Legal Counsel  
1021 North Grand Avenue  
P.O. Box 19276  
Springfield, Illinois 62794-9276

ILLINOIS DEPARTMENT OF NATURAL RESOURCES  
Office of Legal Services  
One Natural Resources Way  
Springfield, Illinois 62702-1271

OFFICE OF THE ILLINOIS ATTORNEY GENERAL  
Chief of Environmental Division  
188 W. Randolph St., 20<sup>th</sup> Floor  
Chicago, Illinois 60601

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SPECIAL WASTE REGULATIONS ) R06-20  
CONCERNING USED OIL, )  
35. Ill. Adm. Code, 808, 809 )  
 )

**MOTION TO WAIVE SIGNATURE REQUIREMENT**

The NORA, An Association of Responsible Recyclers ("NORA"), by and through its attorney, Claire A. Manning, Brown Hay & Stephens LLP., moves to waive the signature requirements of Section 102.200 of the Illinois Pollution Control Board's ("Board") regulations. 35 Ill. Adm. Code 102.200. NORA is seeking to amend the Board's waste rules to clarify that the obligation related to the transportation of used oil as defined and managed in Part 739 is as described in 35 Ill. Adm. Code 739 (Part 739), not 35 Ill. Adm. Code 808 and 809.

1. NORA (formerly, the National Oil Recycling Association) is a trade association comprised of more than 200 companies providing used oil collection and recycling services throughout the entire United States, including Illinois and the surrounding states.
2. Founded in 1984, NORA was actively involved in the creation of the federal rules governing the management and transportation of used oil, found at 40 CFR 279, which were promulgated in 1985 and 1992 and which the Board adopted as Illinois regulations in 1993, via its Identical in Substance rulemaking authority. See R93-4 (September 23, 1993).

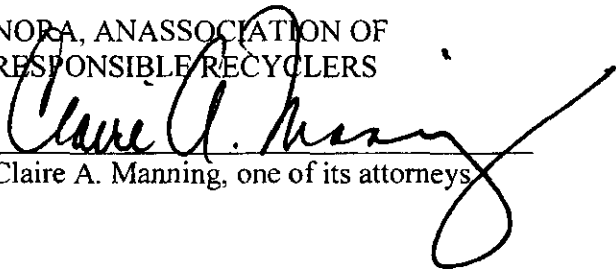
3. Many of NORA's members operate in or through Illinois, and are very interested in the application of the Board's rules concerning the transportation of used oil in this state.
4. NORA exists and acts only due to the concurrence of group members who have common interests in the promotion of environmentally safe, practical and cost effective regulations for the transportation and recycling of used oil and other liquids.
5. NORA has appeared before this Board, and in other states, and before the USEPA and Congress regarding matters related to the recycling of used oil.
6. The Illinois Environmental Protection Agency is aware of NORA's filing of this proposal, and has participated in its development.
7. Because of the nature of NORA, and its status as a member organization, NORA seeks to waive the requirement for signature. To require an organization like NORA to obtain signatures would present an added expense to NORA, and is burdensome and unnecessary.
8. The Board has a long-standing practice of granting a signature waiver request to various trade associations similarly situated to NORA, such as the Sierra Club, the Illinois Association of Wastewater Agencies, and the Illinois Environmental Regulatory Association.

WHEREFORE, NORA moves the Board to waive the signature requirement for its proposed clarifying regulatory amendments.

Respectfully submitted,

NORA, AN ASSOCIATION OF  
RESPONSIBLE RECYCLERS

By:

  
\_\_\_\_\_  
Claire A. Manning, one of its attorneys

**BROWN, HAY & STEPHENS, LLP**

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205 S. Fifth Street, Suite 700  
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Springfield, IL 62705-2459  
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CONCERNING USED OIL, )  
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**PROPOSED RULE AND STATEMENT OF REASONS**

The NORA, An Association of Responsible Recyclers ("NORA"), by its attorney Claire A. Manning, Brown Hay & Stephens, LLP., and pursuant to 35 Ill. Adm. Code 102.200, submits this Proposed Rule and Statement of Reasons in support of its proposal to revise the Illinois Pollution Control Board (the Board) special waste regulations as they relate to the used oil recycling industry in Illinois.

I. **EXISTING REGULATIONS**

Used oil occupies a special place in state and federal statutes and regulations, largely because government environmental policies have sought to encourage recycling of used oil as a prudent alternative to disposal. NORA (formerly, the National Oil Recycling Association) is a trade association comprised of more than 200 companies providing used oil collection and recycling services throughout the entire United States, including Illinois and the surrounding states. Founded in 1984, NORA was actively involved in the creation of the federal rules governing the management and transportation of used oil, found at 40 CFR 279, which were promulgated in 1985 and 1992 and which the Board adopted as Illinois regulations in 1993, via its Identical in Substance rulemaking authority. See R93-

4 (September 23, 1993). Illinois' regulatory counterpart is found at 35 Ill. Adm. Code 739.

Most states have adopted the federal used oil recycling rules (40 CFR Part 279) as the sole regulatory requirements governing the management of used oil. Since Illinois adopted its used oil rules pursuant to its "identical-in-substance" rulemaking authority, Part 739 should mirror 40 CFR 279. However, prior to the Board's promulgation of Part 739, Illinois had established special waste rules, particular provisions of which the Agency applied to the used oil recycling industry. Thus, despite the intended "identical" nature of these rules, the linkage to the existing waste rules has created unique requirements (such as manifesting of used oil during transportation) not set forth in the federal used oil rules.

## II. STATEMENT OF REASONS

NORA members believe that Illinois' additional regulatory treatment of used oil as a special waste, with the corresponding manifesting and special waste hauling requirements, is not consistent with that goal of making Illinois' program identical to the federally designed program. Such requirements make it unduly burdensome to do business in Illinois. NORA members that collect used oil in Illinois have formed a special workgroup for purposes of proposing this rule to the Board, and will be available to testify in its support.

NORA brought these concerns to the Illinois Environmental Protection Agency (the Agency) and, for the last several months, has been engaged in constructive discussions with the goal of making Illinois' used oil program mirror the federal program. NORA believes that the Agency shares the goal of making the Illinois program

substantially equivalent to the federal program and, accordingly, has agreed to eliminate the special waste hauling and manifesting requirements imposed on used oil as defined and managed under Part 739. Toward that end, NORA and the Agency have reached substantial agreement on the specific changes that will be necessary to the Illinois special waste rules to achieve that result.

### III. PROPOSED REGULATORY CHANGES

These proposed amendments seek to decouple the special waste requirements (particularly manifesting and hauling permitting) from the used oil requirements found at Part 739. While NORA maintains that the current regulatory scheme can be interpreted so that these special waste requirements do not apply to used oil, NORA believes that the proposed regulatory changes are necessary in order to unambiguously achieve this result. To achieve the clarity NORA seeks, changes will need to be made to the following provisions of the Board's special waste rules: 35 Ill. Adm. Code 808.121 (Generator Obligations); 35 Ill. Adm. Code 809.211 (exemptions for Nonhazardous Special Waste Transporters); 35 Ill. Adm. Code 809.301 (Requirements for Delivery of Nonhazardous Special Waste to Transporters); 35 Ill. Adm. Code 809.302 (Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters); 35 Ill. Adm. Code 501 (Manifests, Records, Access to Records, Reporting Requirements and Forms).

Specifically, each of the above-referenced sections would be changed as follows:

#### **Section 808.121      Generator Obligations**

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

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



- b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:
- 1) The person is subject to the small quantity generator exemption of Section 808.123.
  - 2) The transporter and waste are subject to a transporter exemption under 35 Ill. Adm. Code 809.211.
  - 3) The Agency has determined pursuant to this Part that the waste is not a special waste.
  - 4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
  - 5) Used oil as defined by or managed pursuant to 35 Ill. Adm. Code 739.
- c) *No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:*
- 1) *At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807 (Sections 21(d) and (e) of the Act); or*
  - 2) *At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act (Section 21(d) of the Act).*
- d) No person shall deliver special waste to a transporter or a permitted facility without a supplemental wastestream permit.
- e) No person shall deliver to a transporter or permitted facility special waste with a wastestream identification number unless the waste conforms with the wastestream description in the wastestream classification determination.

(Source: Amended at 23 Ill. Reg. 6875, effective July 1, 1999)

**Section 809.211 Exemptions for Nonhazardous Special Waste Transporters**

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

- a) Any person licensed in accordance with the Private Sewage Disposal Licensing Act [225 ILCS 225] and who hauls only septic tank pumpings.
- b) Any person who hauls only livestock waste intended for land application pursuant to 35 Ill. Adm. Code 560.
- c) Transporters of municipal water or wastewater treatment plant sludge that is to be applied to land and that is regulated under a sludge management scheme approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- d) Any person licensed in accordance with the Illinois Dead Animal Disposal Act [225 ILCS 610] and who hauls only grease, meat packing scraps, dead animals and parts of animals for delivery to a renderer.
- e) Any person operating under rules and regulations adopted pursuant to the Illinois Oil and Gas Act [225 ILCS 725] and who hauls only oil and gas extraction wastes as defined in that Act.
- f) Any person who hauls only radioactive wastes as defined by the Radiation Protection Act [420 ILCS 40].
- g) Any person who hauls only coal combustion fly ash.
- h) Any person who hauls only declassified waste or refuse.
- i) Any person who hauls only special waste exempted by 35 Ill. Adm. Code 808.123 (small quantity generators of 220 pounds or less per month of special waste).
- j) Any person who hauls potentially infectious medical waste that is regulated under 35 Ill. Adm. Code Subtitle M.
- k) Any person who hauls used tires regulated under 35 Ill. Adm. Code 848.
- l) Any person who hauls used oil subject to regulation as used oil pursuant to 35 Ill. Adm. Code 739.

(Source: Amended at 24 Ill. Reg. 14747, effective September 25, 2000)

**Section 809.301      Requirements for Delivery of Nonhazardous Special Waste to Transporters**

No person may deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste

transporter who holds a current nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or C of this Part. A manifest is not required to be delivered to a transporter who hauls used oil subject to regulation as used oil pursuant to 35 Ill. Adm. Code 739 and who has registered as a used oil transporter and obtained an Illinois Special Waste identification number.

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

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

- a) No person may accept any special waste for disposal, storage or treatment within Illinois from a special waste transporter unless the special waste transporter has a valid nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or J of this Part and concurrently presents to the receiver of the special waste, or the receiver's agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates the receiver's facility as the destination for the special waste. A manifest is not required to be presented by a transporter who hauls used oil subject to regulation as used oil pursuant to 35 Ill. Adm. Code 739, and who has registered as a used oil transporter and obtained an Illinois Special Waste identification number.
- b) No person may deliver special waste in Illinois for disposal, storage or treatment unless the person who accepts the special waste has a current, valid operating permit issued by the Agency and the necessary supplemental permits required by 35 Ill. Adm. Code 807, as well as all other applicable permits as required by the Act and Board regulations.

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

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

- a) Any person who delivers special waste to a permitted nonhazardous special or hazardous waste transporter shall complete a uniform hazardous waste manifest to accompany the special waste from delivery to the destination of the special waste. The manifest form will be provided or prescribed by the Agency. A manifest is not required to accompany deliveries of used oil by a transporter who hauls used oil subject to regulation as used oil pursuant to 35 Ill. Adm. Code 739, and who has registered as a used oil transporter and obtained an Illinois Special Waste identification number.

(Source: Repealed at 23 Ill. Reg. 6842, effective July 1, 1999)

For the convenience of the Board, these proposed changes are included in complete, downloaded versions of Part 808 and 809 which have been downloaded from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) on November 18, 2005 and which upon verification, have not changed in language since that time. See Exhibit A.

Various principals of NORA companies are available to testify if necessary and to present pre-filed testimony to the extent the Board deems such warranted. The testimony would be consistent with the statement of reasons set forth in this document, and would provide further background concerning the history, intent and purpose of the used oil regulations.

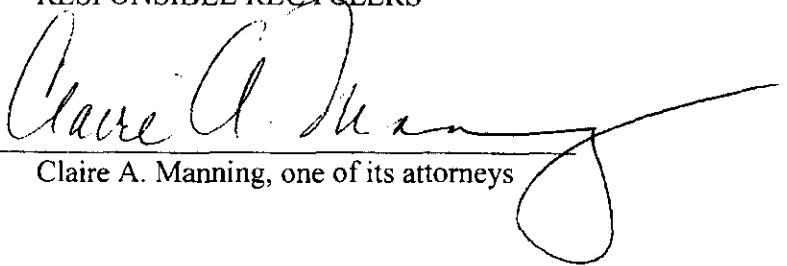
IV. CONCLUSION

NORA respectfully requests that the Board set this matter for First Notice as soon as possible, accept the proposal for hearing, and move this rulemaking forward as expeditiously as possible.

Respectfully submitted,

NORA, AN ASSOCIATION OF  
RESPONSIBLE RECYCLERS

By:

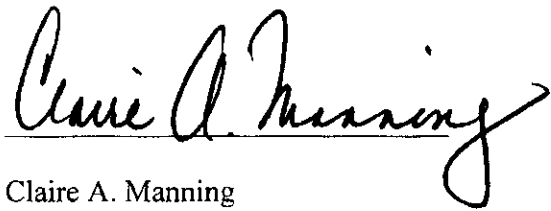


Claire A. Manning, one of its attorneys

**BROWN, HAY & STEPHENS, LLP**  
Claire A. Manning, Esq.  
Registration No. 3124724  
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P.O. Box 2459  
Springfield, IL 62705-2459  
(217) 544-8491  
[Cmanning@bhslaw.com](mailto:Cmanning@bhslaw.com)

CERTIFICATION

In compliance with Section 102.202(h) of the Board's rules, which requires a "written statement or certification that the proposal amends the most recent version of the rule as published on the Board's Web site or as obtained from the Clerk" the undersigned hereby certifies that the background text of the rules proposed in the attached **Proposed Rule and Statement of Reasons** is consistent with the current version of the Board's rules, as they today appear on the Board's website.

A handwritten signature in black ink, reading "Claire A. Manning". The signature is written in a cursive style with a horizontal line underneath the name.

Claire A. Manning

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

**PART 808  
SPECIAL WASTE CLASSIFICATIONS**

**SUBPART A: GENERAL PROVISIONS**

**Section**

- 808.100 Purpose, Scope and Applicability
- 808.101 Transitional Rule
- 808.110 Definitions
- 808.111 Incorporations by Reference
- 808.121 Generator Obligations
- 808.122 Manifests
- 808.123 Small Quantity Generators

**SUBPART B: CLASSES OF SPECIAL WASTE**

**Section**

- 808.240 Special Waste Classes
- 808.241 Default Classification of Special Wastes
- 808.242 Special Handling Waste
- 808.243 Wastes Categorized by Source
- 808.244 Wastes Categorized by Characteristics
- 808.245 Classification of Wastes

**SUBPART C: CRITERIA AND DATA REQUIREMENTS**

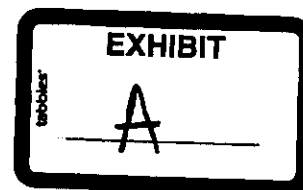
**Section**

- 808.300 Introduction
- 808.301 Degree of Hazard Determination by Computer
- 808.302 Data Base and Bioassay Procedures

**SUBPART D: REQUEST FOR WASTE CLASSIFICATION**

**Section**

- 808.400 Introduction
- 808.401 Application Forms



|         |                                      |
|---------|--------------------------------------|
| 808.402 | Application for Waste Classification |
| 808.410 | Physical and Chemical Analysis       |
| 808.411 | Significant Trace Constituents       |
| 808.412 | Common Names                         |
| 808.413 | Wastestream Description              |
| 808.420 | Quality Assurance Plan               |
| 808.430 | Degree of Hazard Data                |
| 808.431 | Toxicological Testing                |

#### **SUBPART E: REVIEW OF CLASSIFICATION REQUESTS**

|                |                                 |
|----------------|---------------------------------|
| <b>Section</b> |                                 |
| 808.501        | Order of Requesting Information |
| 808.502        | Completeness                    |
| 808.503        | Standard for Classification     |

#### **SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS**

|                |  |
|----------------|--|
| <b>Section</b> |  |
| 808.520        | Time for Agency Action                   |
| 808.521        | Conditions of Wastestream Classification |
| 808.522        | Final Agency Action                      |

#### **SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT**

|                |                          |
|----------------|--------------------------|
| <b>Section</b> |                          |
| 808.541        | Request for Modification |
| 808.542        | Appeal                   |
| 808.543        | Effect of Classification |
| 808.544        | Enforcement              |
| 808.545        | Modification             |

#### **SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES**

|                |  |
|----------------|--|
| <b>Section</b> |  |
| 808.600        | Introduction                           |
| Appendix A     | Assignment Of Special Waste To Classes |
| Appendix B     | Toxicity Hazard                        |

**AUTHORITY:** Implementing Sections 21, 22, 22.01 and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9].

SOURCE: Adopted in R89-13A at 14 Ill. Reg. 14043, effective August 15, 1990; amended in R98-29 at 23 Ill. Reg. 6875, effective July 1, 1999.

**SUBPART A: GENERAL PROVISIONS**

**Section 808.100 Purpose, Scope and Applicability**

- a) This Part provides a means by which persons may obtain a classification or declassification of special (non-Resources Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.) waste as defined in Section 808.110, based on the degree of hazard of the waste or other characteristics, to assure that the waste receives appropriate handling. This Part does not apply to materials which are not special wastes as defined by the Act.
- b) This Part allows any person generating such special waste to request waste classification and prescribes procedures by which applicants may supply detailed information in order to establish the appropriate waste classification. For the purposes of this Part, the term "classification" includes declassification. Waste which has been declassified shall not be deemed special waste until further action to the contrary by the Agency pursuant to this Part.
- c) Special wastes that are declassified pursuant to this Part are not subject to any of the special waste hauling, disposal and reporting requirements of 35 Ill. Adm. Code 809, but are still subject to other Parts of 35 Ill. Adm. Code: Subtitle G which govern the transport, treatment, storage and hauling of non-special wastes.

**Section 808.101 Transitional Rule**

Wastestreams which have been declassified by the Agency pursuant to Section 22.9(c) of the Act prior to the effective date of these rules shall remain declassified for a period of not more than two years following the effective date of these rules, unless extended by the Board in a variance proceeding. In order to accommodate its workload, the Agency may, by giving not less than 180 days' prior written notice, require generators to make reapplication by a date certain within this two year time period. The Agency may extend this reapplication deadline for a period of not more than an additional 180 days, but in no event may the Agency extend the deadline to a date more than two years following the effective date of this Part. Upon application before the deadline, such wastestreams shall remain declassified during the pendency of any Agency determination or any appeal to the Board of such determination made pursuant to Section 22.9(e) of the Act. As provided in Section 808.241, all special (non-RCRA)



wastes shall be deemed Class A special wastes unless a contrary determination has been made pursuant to this Part.

**Section 808. 110 Definitions**

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Carcinogen" means a chemical, or complex mixture of closely related chemicals, which has been determined in accordance with USEPA Guidelines for Carcinogenic Risk Assessment, incorporated by reference at Section 808.111, to have either sufficient or limited human evidence or sufficient animal evidence supporting a causal association between exposure to the chemical and an increase in incidence of benign or malignant neoplasms or substantial decrease in the latency period between exposure and onset of neoplasms.

"Declassified waste" means a waste which has been determined pursuant to Section 808.245 to not be a special waste.

"Degree of hazard" is determined pursuant to Section 808.245.

"Hazardous waste" or "RCRA hazardous waste" is as defined in 35 Ill. Adm. Code 721.

"LC<sub>50</sub>" means that concentration of a substance administered to test organisms that is lethal to 50 percent of a population of exposed organisms in a given time period. "Inhalation rat" means that the substance is administered by inhalation and the test organisms are laboratory rats. "Aquatic toxicity" means that the substance is administered in water to specified free-swimming test organisms.

"LD<sub>50</sub>" means that dose of a substance administered to test organisms that is lethal to 50 percent of a population of exposed organisms in a given time period. "LD<sub>50</sub>-oral rat" or "oral rat" means that dose of a substance, administered orally, that is lethal to 50 percent of a population of exposed rats in a given time period.

"Mutagen" means a chemical, or complex mixture of closely related chemicals or ionizing radiation which has been determined, in accordance with USEPA Guidelines for Mutagenic Risk Assessment,

incorporated by reference at Section 808.111, to have sufficient evidence supporting a causal association between exposure to the chemical and point mutations (i.e., submicroscopic changes in the base sequence of DNA) or structural or numerical chromosome aberrations. Structural aberrations include deficiencies, duplications, insertions, inversions, and translocations, whereas numerical aberrations are gains or losses of whole chromosomes (e.g., trisomy, monosomy) or sets of chromosomes (haploidy, polyploidy).

"Special handling waste" is a declassified waste which, due to its form and mode of containment in transport or storage, presents a danger to a person handling the waste such that the person needs information about the waste to safely transport or store the waste. "Special handling waste" includes any such waste which would pose a danger if handled in a manner similar to household waste. "Dangers" include, but are not limited to, the following: fire, explosion, and emission of toxic or carcinogenic gas or dust. "Special handling waste" also includes any special waste which, because of appearance or packaging, resembles waste which would be a special handling waste. Such waste includes, but is not limited to, any special waste contained in a sealed drum. Irrespective of its degree of hazard ranking under Section 808.245, a special handling waste is a special waste.

BOARD NOTE: Section 808.245(d) provides that special handling waste which would otherwise be declassified is at least a Type B special waste

"Special (non-RCRA) waste" is any special waste that is not hazardous waste as defined in this Section.

*"Special waste" means any hazardous waste, and any industrial process waste or pollution control waste which has not been declassified pursuant to Section 808.245. (Section 3.45 of the Act.)*

Board Note: The definition of "hazardous waste" at Section 3.15 of the Act differs from the definition of the same term as used in this Part. The Board intends that the Section 3.15 definition apply to this Part only for the purposes of this definition of special waste. The Board intends that the definition given in this Section apply to all other appearances for the term "hazardous waste" throughout this Part.

"TC<sub>50</sub>" means that dose of a substance administered to test organisms that produces toxic effects in 50 percent of a population of exposed organisms in a given time period. "TD<sub>50</sub>-oral rat" means that the test organisms are laboratory rats.

**Section 808.111 Incorporations by Reference**

a) The Board incorporates the following materials by reference:

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 354-3300:

--ANSI/ASQC C2-1985, "Specification of General Requirements for a Quality Program", approved November, 1985.

--ANSI/ASQC S1-1987, "An Attribute Skip-Lot Sampling Program", approved March 6, 1987.

--ANSI/ASQC Q94-1987, "Quality Management and Quality System Elements - Guidelines", Approved June 15, 1987.

--ANSI/ASQC Z1.4-1981, "Sampling Procedures and Tables for Inspection by Attributes", Approved 1981.

--ANSI/ASQC Z1.9-1980, "Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming", Approved March 6, 1980.

ASTM. Available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, (215) 299-5400:

--ASTM Standard D 3828-87 "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved December 14, 1987.

--ASTM Standard D-93-79 or D-93-80 "ASTM Standard Test Methods for Flash Point Pensky-Martens Closed Tester," approved August 19, 1980.

--ASTM Standard E 896-87 "Standard Test Method for Conducting Aqueous Direct Photolysis Tests", approved September 25, 1987.

--ASTM Standard E 1147-87 "Standard Test Method for Partition Coefficient (n-Octanol/Water) Estimation by Liquid Chromatography", approved February 27, 1987.

--ASTM Standard E 1148-87 "Standard Test Method for Measurements of Aqueous Solubility", approved April 3, 1987

NTIS. Available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600:

--"Methods for Chemical Analysis of Water and Wastes", Third Edition, March, 1983. (Document number PB 84-128677)

--"Test Methods for Evaluating Solid Waste", Physical/Chemical Methods," EPA Publication number SW-846 United States Environmental Protection Agency (Third Edition, November, 1986).

Federal Register. Available from the Superintendent of Documents, United States Printing Office, Washington, DC 20402:

--USEPA Guidelines for Carcinogenic Risk Assessment, 51 Fed. Reg. 33992-34003 (September 21, 1986).

b) This Section incorporates no future amendments or editions.

**Section 808.121 Generator Obligations**

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

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

- b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:

- 1) The person is subject to the small quantity generator exemption of Section 808.123.
- 2) The transporter and waste are subject to a transporter exemption under 35 Ill. Adm. Code 809.211.
- 3) The Agency has determined pursuant to this Part that the waste is not a special waste.
- 4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- 5) Used oil as defined by or managed pursuant to 35 Ill. Adm. Code 739.

- c) *No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:*

- 1) *At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807 (Sections 21(d) and (e) of the Act); or*
- 2) *At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act (Section 21(d) of the Act).*

- d) No person shall deliver special waste to a transporter or a permitted facility without a supplemental wastestream permit.

- e) No person shall deliver to a transporter or permitted facility special waste with a wastestream identification number unless the waste

conforms with the wastestream description in the wastestream classification determination.

(Source: Amended at 23 Ill. Reg. 6875, effective July 1, 1999)

**Section 808.122 Manifests**

Except as otherwise provided by Section 808.121(b), the generator of any special waste shall prepare a manifest, as prescribed by 35 Ill. Adm. Code 809.501, prior to shipment.

**Section 808.123 Small Quantity Generators**

Any person who generates a total quantity of special waste of 100 kilograms (220 pounds) or less in a calendar month is not required to initiate a manifest when delivering such special waste to a hauler, provided that such waste shall not be accumulated for more than 180 days prior to shipment. In any action to enforce the requirements of this Part in which the generator asserts the applicability of this Section, the burden of proof shall be on the generator to establish compliance with the monthly quantity limitation and the time limit on accumulation. The generator shall record and maintain the quantities and dates of waste generation and accumulation to establish compliance with such quantity and time limitations.

**SUBPART B: CLASSES OF SPECIAL WASTE**

**Section 808.240 Special Waste Classes**

- a) This Subpart contains rules for the classification and declassification of special (non-RCRA) wastes. There are two classes of such special wastes, "Class A" and "Class B." Wastes which are declassified pursuant to Section 808.245 of this Part shall no longer be considered special wastes.
- b) "Class A" special wastes are those special (non-RCRA) wastes which the Agency has not determined, pursuant to this Part, to be a Class B special waste. "Class B" special wastes are those special (non-RCRA) wastes which the Agency determines, pursuant to Section 808.245, pose a low or moderate degree of hazard to the environment or the public health in the course of their transportation, storage, treatment or disposal.
- c) This Subpart should be read in conjunction with the flowchart in Appendix A. The flowchart is employed by answering the queries in order, beginning from the top, and following the lines corresponding to the appropriate responses down the chart until the waste is classified.

The Sections of this Subpart are so arranged on that flowchart that the first Section on the chart which assigns a waste classification to the waste controls.

- d) Subpart D contains procedures by which a person may request that the Agency assign a special wastestream to a class.
- e) Subpart H contains waste classifications based on source or characteristics to which specific wastestreams have been assigned.

**Section 808.241 Default Classification of Special Wastes**

Any special (non-RCRA) waste is a Class A special waste unless and until the Agency determines otherwise pursuant to this Part.

**Section 808.242 Special Handling Waste**

The Agency may determine that a waste which is declassifiable pursuant to Section 808.245(d) is a special handling waste. Any such waste shall be so identified by the Agency, together with appropriate conditions on its form and mode of containment in transport or storage. A declassifiable waste which is determined to be a special handling waste is a Class B special waste.

BOARD NOTE: This rule sets the special handling flag. A special handling waste will require manifesting, regardless of the toxic score under Section 808.245, to protect the waste hauler, the treatment or disposal operator and their employees.

**Section 808.243 Wastes Categorized by Source**

- a) Subpart H defines certain categories of wastes, based on the type of source or generator, and assigns them to classes.
- b) A waste which meets the criteria for inclusion within a category based on the type of source or generator, is a special waste the of class specified for that category.

**Section 808.244 Wastes Categorized by Characteristics**

- a) Subpart H defines certain categories of waste based on their characteristics, and assigns them to classes.
- b) A waste which meets the criteria for inclusion within a category based on its characteristics is a special waste of the class specified for that category.

**Section 808.245      Classification of Wastes**

Special wastes which are subject to this Subpart shall be classified or declassified based on toxic score as follows:

- a) Compute the toxic score for the wastestream pursuant to Appendix B or, where applicable, pursuant to Section 808.431, utilizing a data base which meets the standards of Section 808.302. However, if use of Appendix B or Section 808.431 is demonstrated to the Agency to be inapplicable or unavailable for the wastestream, the generator may employ a bioassay procedure approved by the Agency pursuant to Section 808.302, solely for the purpose of determining if the waste in its undiluted form results in no behavioral response from the exposed test organisms and, thus, warrants a toxic score of 0 (zero). Where applicable, the toxic score shall include the maximum volume of waste to which such score applies.
- b) Except as authorized under subsection (e), a wastestream receiving a toxic score of 3 shall be deemed a Class A special waste.
- c) Except as authorized under subsection (e), a wastestream receiving a toxic score of 1 or 2 shall be deemed a Class B special waste; however, such waste shall be deemed a Class A special waste if the Agency determines that it exhibits one or more of the following characteristics:
  - 1) The physical form of the waste renders it difficult to manage in transport, storage or handling prior to final disposition, or in a landfill (Examples of wastes possessing such form are wastes containing free liquids, and wastes in finely divided form which are susceptible to airborne dispersal.);
  - 2) The chemical properties of the waste, if exposed to the atmosphere or to an aqueous environment, render it difficult to manage in the event of a leak, spill or other loss of containment during transport, storage or handling prior to final disposition, or in a landfill (Examples of wastes possessing such properties are wastes which produce noxious or toxic fumes or gases in sufficient concentration and quantity to pose a threat to the public health or the environment, wastes which are ignitable or flammable, wastes which are readily soluble in water, and wastes which are highly mobile in an aqueous environment, including in groundwater.); or
  - 3) The unstable nature of the waste renders it difficult to contain during transport, storage or handling prior to final disposition, or

in a landfill (Examples of wastes possessing such an unstable nature are wastes which are corrosive or reactive, and any other wastes which, under foreseeable conditions, may cause the premature failure of waste containment devices and structures.).

- d) A wastestream receiving a toxic score of 0 shall be declassified, except that such a waste that is determined by the Agency to be a special handling waste shall be deemed a Class B special waste
- e) Notwithstanding a wastestream's toxic score, the Agency may condition a lowered classification or a declassification of a special waste under this Section. Such conditions imposed by the Agency shall be limited to measures by which the generator shall, by particular modes or forms of containment or treatment, assure that the dangerous characteristics of the wastes are avoided or reduced. (Examples of such measures are neutralization of acidic wastes prior to shipment, containment or encapsulation of finely divided wastes, and treatment of ignitable wastes so as to preclude ignition.) However, under no circumstances shall a wastestream with a toxic score of 3 be declassified based solely upon its mode of containment.
- f) All conditions or limitations imposed by the Agency that relate to the toxic score (including, where applicable, maximum wastestream volume) and classification or declassification of a wastestream shall be specified in the Agency's determination.

### **SUBPART C: CRITERIA AND DATA REQUIREMENTS**

#### **Section 808.300 Introduction**

This Subpart governs criteria and data requirements which shall be used to predict the degree of hazard pursuant to Section 808.245.

#### **Section 808.301 Degree of Hazard Determination by Computer**

- a) The Agency may employ electronic data processing equipment and programs to accomplish the purposes of this Subpart. Any such program must assign a degree of hazard according to the method specified in Section 808.245.
- b) The output generated by use of such equipment or such a program must display all data used in each degree of hazard prediction, together with the source of the data.



**Section 808.302 Data Base and Bioassay Procedures**

- a) This Section governs the data base and bioassay procedures which may be employed to assess the physical, chemical and toxicological properties of waste constituents.
- b) The data base, and any bioassay procedure utilized pursuant to Section 808.245(a), shall consist of and use data and procedures which the Agency determines are a reliable basis for decision. Reliability of a source of data and procedures shall be assessed by reference to such factors as, but not limited to, scientific validity; consistency with directly observable data, including monitoring data; and the consistency of results of repeated applications of the data, procedures and formulae. Sources of data may include, but are not limited to, the following:
  - 1) Standard reference sources;
  - 2) Material published or incorporated by reference by a federal regulation or by a regulation adopted by an agency of the State of Illinois;
  - 3) The application under consideration and written communications between the applicant and the Agency or their representatives with respect to the application;
  - 4) Data and procedures previously used by the Agency in other wastestream categorization determinations; or
  - 5) Agency inspection, permitting and enforcement files relating to the generator or the wastestream, excluding complaint forms (except where the complainant will be available voluntarily for deposition and examination under oath at any hearing on appeal pursuant to Subpart G).
- c) The Agency shall make available for inspection and copying by the public a list of the sources of data and bioassay procedures which it has previously utilized for purposes of this Section, excluding any data described in subsection (b)(3) of this Section that is protected from public disclosure pursuant to Sections 7 or 7.1 of the Act or pursuant to 35 Ill. Adm. Code 101 or 120.

**SUBPART D: REQUEST FOR WASTE CLASSIFICATION**

**Section 808.400 Introduction**

- a) This Subpart specifies the procedures which shall be used to obtain a waste classification from the Agency.
- b) A waste classification may be requested by generators of special waste, as specified in Subpart A.

**Section 808.401 Application Forms**

Persons applying for a waste classification shall use application forms provided or approved by the Agency.

**Section 808.402 Application for Waste Classification**

An application for waste classification shall, at a minimum, include the following information:

- a) Basic information:
  - 1) The name, address and phone number of the original generator;
  - 2) The original generator's United States Environmental Protection Agency (USEPA) identification number (35 Ill. Adm. Code 722.122) and the Agency identification number, if the original generator has obtained either;
  - 3) The name and address of any treater of the waste;
  - 4) Any treater's USEPA identification number and Agency site number, if the treater has obtained either;
  - 5) Whether any treater has a RCRA permit or interim status;
  - 6) A chemical and physical analysis of the waste as specified in Section 808.410;
  - 7) A wastestream description, as specified in Section 808.413;
  - 8) A quality assurance plan, as specified in Section 808.420;
  - 9) A description of any current waste storage, treatment and disposal processes applicable to the wastestream;
  - 10) Identification of the disposal site or sites to which the applicant proposes to send the waste, and the proposed modes of transportation; and

BOARD NOTE: This information is requested to assist the Agency in reviewing the application. These rules do not preclude use of a disposal site which is not identified in the application for classification.; and

11) Wastestream number of any supplemental wastestream permit issued for the waste pursuant to 35 Ill. Adm. Code 807.210, and the expiration date of any such permit.

b) The rationale for requesting classification, including all relevant calculations and other bases for conclusions; (If Appendix B of this Part has not been utilized for purposes of calculating the toxic score, such rationale shall indicate the reasons for using an alternative means of determining the toxic score, including an explanation of whether the alternative means chosen is equivalent to Appendix B.)

c) Data establishing that the waste is not a hazardous waste pursuant to 35 Ill. Adm. Code 721;

BOARD NOTE: Wastestream categorization is not applicable to RCRA hazardous wastes. If the generator anticipates that this will be an issue, the generator should include documentation supporting the claim that the waste is not a hazardous waste pursuant to 35 Ill. Adm. Code 721.

d) Data bearing on whether the waste is a special handling waste, including the physical form of the waste and the mode of containment, if any, during transport;

e) Whether the waste can be categorized by source, pursuant to Section 808.243, or by characteristic, pursuant to Section 808.244;

f) Sufficient physical, chemical and toxicological data to assign a degree of hazard pursuant to Section 808.430;

g) If necessary, results of toxicological testing, as specified in Section 808.431;

h) Such additional information as the generator believes is appropriate to show that the waste should be classified as the generator requests; and

i) Such additional information as the Agency determines is necessary to assign the waste to a class. The Agency may specify additional information by a request directed to the individual applicant.

**Section 808.410 Physical and Chemical Analysis**

Physical and chemical analyses of wastes for purposes of this Subpart shall be conducted as follows:

- a) Samples must be representative of the wastestream and shall:
  - 1) Include all waste phases.
  - 2) Be taken from areas distributed spatially within the waste bulk;  
and
  - 3) Be taken at suitable time intervals and over a sufficient period of time to account for variation in the wastestream through work shifts, seasons, etc.
  
- b) The following properties shall be determined and reported:
  - 1) The physical description of the wastestream, including, but not limited to, its temperature, color, phase and flow rate;
  - 2) The pH of aqueous phases of the waste, or the pH of a 1:1 volume dilution of solid phases of the waste with distilled and buffered water;
  - 3) The flashpoint of liquid phases by the Pennsky-Martens Closed Cup test method, specified in ASTM Standard D-93-79 or D-93-80, incorporated by reference at Section 808.111, or by a Setaflash Closed Cup tester, using the test method specified in ASTM standard D-3828-78, incorporated by reference at Section 808.111;
  - 4) Results of an EP toxicity test, as specified in 35 Ill. Adm. Code 721.124; and
  - 5) Density.
  
- c) The waste shall be analyzed for its constituents as follows;
  - 1) The analysis must include all materials introduced into a process generating the wastestream, and all materials which come into contact with products and materials produced by the process or in storage, including end products and impurities;

- 2) The analysis must include all constituents which will react with each other under the process conditions;
  - 3) If available, the analysis must use the Chemical Abstracts Service (CAS) name and number for each constituent, or a name from the list of common names pursuant to Section 808.412. Otherwise, if the CAS name and number and such a common name is not available for the constituent, the person requesting classification may provide a name and complete description of the constituent;
  - 4) The analysis shall include a list of major constituents and concentrations which accounts for at least 99% percent of the mass of the waste. The list may include an entry for "other" or "unknown" if significant trace constituents have been identified as provided in subsection (c)(5). The analysis shall list major constituents of the waste rounded to the nearest tenth of a percent, and shall be supported by a mass balance;
  - 5) Significant trace constituents. The generator shall include a list and the concentration of all significant trace constituents, as defined in Section 808.411; and
  - 6) The analysis shall identify all such major constituents and significant trace constituents listed in 35 Ill. Adm. Code 721.Appendix H.
- d) The analysis must report the average concentration or mass percentage and the expected range of each major constituent and significant trace constituent. The expected range is the 95% percent confidence intervals for each set of analyses for the constituent. The error analysis must take into account the following:
- 1) Temporal variation in the wastestream properties;
  - 2) Uncertainties arising from sampling the waste; and
  - 3) Uncertainties arising from the method of analysis.

**Section 808.411 Significant Trace Constituents**

A significant trace constituent is a constituent revealed by analysis:

- a) Which is present at a mass concentration of less than 1 percent; and

- b) Which has a toxicity, BiTi, as determined in Appendix B, of less than 500 mg/l.

**Section 808.412 Common Names**

The Agency shall utilize common names, together with a description of each, for constituents not amenable to chemical nomenclature.

BOARD NOTE: The purpose of this provision is to promote greater consistency in the naming of constituents. The Agency may use this mechanism to assign common names to constituents. Such names include: Sand, water, wood, foodstuff, etc. In addition, this mechanism can be used to assign a name and toxicological properties to complex mixtures after these have been determined for a wastestream or a type of waste-generating process.

**Section 808.413 Wastestream Description**

- a) The wastestream description must include the following:
  - 1) The name of the generator, if other than the original generator, identified in the application for waste classification pursuant to Section 808.402(a)(1);
  - 2) The name of the wastestream, as assigned by the Agency pursuant to Section 808.412, or as assigned by the generator, if no name has been assigned by the Agency;
  - 3) A general description of the activity, production process or treatment process which gives rise to the waste;
  - 4) A general description of the physical and chemical properties of the wastestream; including its anticipated annual volume.

BOARD NOTE: This description may be summary and narrative; detailed description of physical and chemical properties of the wastestream is governed by Section 808.410.

- b) The wastestream description may include a description of a range of physical and chemical properties of the wastestream, based on physical and chemical analysis pursuant to Section 808.410, that are associated with periodic, occasional or anticipated changes in the process which produces the waste (e.g., changes in materials used as coatings, bonding agents or solvents).

BOARD NOTE: The wastestream description differs from the waste analysis required pursuant to Section 808.410. The wastestream description should describe the waste which the applicant wishes to have classified, which may not be exactly what the applicant presently produces. The waste which is subjected to analysis must fit within the wastestream description, but need not be identical to all variations of it. To avoid having to necessarily repeat the waste classification process, the applicant should request classification of a broadly-defined and characterized wastestream, so as to cover any periodic, occasional or anticipated modification to the waste properties. However, this will tend to increase the degree of hazard ranking of the wastestream.

### **Section 808.420 Quality Assurance Plan**

A quality assurance plan shall detail steps which the generator will take to ensure that the waste conforms with the wastestream description.

- a) The plan must include employee orientation measures, such as the following:
  - 1) Assignment of responsibility for assuring compliance;
  - 2) Employee training;
  - 3) Work rules;
  - 4) Posting of signs; and
  - 5) Positioning of waste receptacles.
  
- b) The plan must include periodic and random inspection, sampling and analysis of the wastestream to ensure that it conforms with the wastestream description. The plan must be designed so that there is at least a 95 percent probability that loads meet the wastestream description. The plan may specify measures to be taken to account for variables in the properties by the wastestream, so as to prevent false negatives.

BOARD NOTE: The applicant should use statistical quality control to devise a plan with an inspection schedule which meets the above standard based on the properties and variability of the wastestream.

- c) The plan may provide for inspection, sampling and analysis by the permitted facility which receives the waste. If so, the plan must include a written agreement by the receiving facility that explicitly details what

actions the receiving facility will undertake to fulfill the requirements of this Section.

BOARD NOTE: The permitted facility is required by permit and 35 Ill. Adm. Code 811 to inspect, sample and analyze the wastes it receives. This is distinct from similar activities undertaken by contract on behalf of the generator pursuant to this Section.

**Section 808.430 Degree of Hazard Data**

- a) The applicant shall submit its degree of hazard prediction, including the estimated toxic score and the information or data used to calculate the prediction, with the application.

BOARD NOTE: The applicant may include the results of a degree of hazard prediction performed by a computer program.

- b) The Agency may request additional data, if necessary to assign the waste to a class and the application contains inadequate information to determine the degree of hazard of the waste.

BOARD NOTE: If the Agency requests data, the request may include a computer-generated result of an attempt to perform the degree of hazard prediction, together with a specific request for needed data.

- c) Degree of hazard data shall include sufficient information to classify the waste pursuant to Section 808.245. In addition to the information normally obtained by the physical and chemical analysis required by Section 808.410, the degree of hazard data shall include, but not be limited to, the following with respect to each constituent:

- 1) Toxicity;
- 2) n-Octanol/water partition coefficient;
- 3) Persistence, measured as the half-life in days; and
- 4) Solubility in water, in parts per million on a weight basis.

**Section 808.431 Toxicological Testing**

- a) Except as otherwise authorized by Section 808.245(a), the Agency shall request that the applicant perform toxicological testing of components or of the waste pursuant to Appendix B of this Part, if a toxic score determination is necessary to assign the waste to a class and there is



inadequate information in the Agency's data base to determine the toxic score.

- b) The applicant shall elect to include the results of toxicological testing of either the components of the waste or the waste itself.
- c) Testing required under subsection (a) shall be to determine an LD<sub>50</sub>-oral rat. The Agency shall approve alternative toxicological testing if the applicant demonstrates that an LD<sub>50</sub> - oral rat cannot be measured or is otherwise inappropriate. The applicant shall document the relation of the alternative test to an LD<sub>50</sub> - oral rat.

#### **SUBPART E: REVIEW OF CLASSIFICATION REQUESTS**

##### **Section 808.501 Order of Requesting Information**

- a) If possible, the Agency shall categorize the wastestream without requesting or using degree of hazard data pursuant to Section 808.430. However, nothing herein shall preclude the Agency from requesting or using degree of hazard data to confirm the characteristics of the waste.

BOARD NOTE: For example, if the waste is a categorical waste, it should be assigned to the type for that category without resort to degree of hazard data.

- b) If, after requesting and receiving degree of hazard data pursuant to Section 808.430, the Agency still cannot determine the degree of hazard, the Agency shall request toxicological testing pursuant to Section 808.431.

##### **Section 808.502 Completeness**

- a) An incomplete application is one which, together with the Agency's database, has insufficient information to classify the waste.
- b) If the Agency determines that an application is incomplete, it shall classify the waste as a Class A special waste, unless the Agency determines, based on such information as is available, that the waste is a RCRA hazardous waste pursuant to 35 Ill. Adm. Code 721.

#### **SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS**

##### **Section 808.520 Time for Agency Action**

- a) The Agency shall issue a wastestream classification determination within 60 days after the date of receipt of complete application.
- b) The applicant may waive the time for Agency action.
- c) As provided in Section 22.9(e) of the Act, IF THE AGENCY DENIES A REQUEST OR FAILS TO ACT WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST, THE APPLICANT MAY SEEK REVIEW BEFORE THE BOARD PURSUANT TO SECTION 40 OF THE ACT AS IF THE AGENCY HAS DENIED AN APPLICATION FOR A PERMIT.

**Section 808.521 Conditions of Wastestream Classification**

The Agency shall include the following conditions in each wastestream classification determination:

- a) Wastestream description;
- b) Wastestream identification number assigned to the specific determination;
- c) Classification of the special waste;
- d) Limitations on the management of the waste consistent with this Part, and 35 Ill. Adm. Code 809;
- e) A quality assurance plan;
- f) The expiration date, if any; and
- g) Such additional conditions as the Agency determines are necessary to assure that waste managed pursuant to the classification determination is of the class specified.

**Section 808.522 Final Agency Action**

Final Agency action shall consist of a final determination of a wastestream classification request. The Agency takes final action on the date the wastestream classification determination is mailed to the applicant.

**SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT**

**Section 808.541 Request for Modification**

If the application is a request for modification of a previous final wastestream determination, the applicant shall continue to manage waste pursuant to the old determination until it receives a final disposition of its request for a new determination.

**Section 808.542 Appeal**

- a) Within 35 days after the Agency's final action, the applicant may appeal a wastestream classification determination to the Board. Appeals under this Section shall be subject to the requirements of 35 Ill. Adm. Code 105.
- b) The record before the Board consists of the data base which was considered by the Agency at the time the Agency took final action. The applicant may supplement the record before the Board only under one or more of the following conditions:

- 1) If the applicant attempted to submit the information into the data base before the Agency prior to filing its appeal to the Board; or

BOARD NOTE: This provision is intended to prevent the use of appeals to challenge the validity of degree of hazard data through the introduction of new information without the Agency having the opportunity to reconsider its determination based on that new information.

- 2) If the data base filed by the Agency is not complete with respect to materials identified in Section 808.302(b)(3).

**Section 808.543 Effect of Classification**

A wastestream classification provides the generator with a determination necessary to obtain a wastestream identification number or to modify a supplemental wastestream permit. A wastestream identification number and a supplemental wastestream permit are necessary for completion of manifests and reports required by this Part and 35 Ill. Adm. Code 809 and 807. The wastestream classification authorizes the generator, hauler and permitted facility to transport and manage waste meeting the wastestream description in accordance with regulations governing the transportation and management of special waste of the type provided in the classification determination.

**Section 808.544 Enforcement**

Any person may bring an action pursuant to Title VIII of the Act and 35 Ill. Adm. Code 103 to seek enforcement of the provisions of this Part. Penalties may be assessed upon a finding of violation, as provided in Title XII of the Act. Sanctions may include revocation of a wastestream classification determination.

**Section 808.545 Modification**

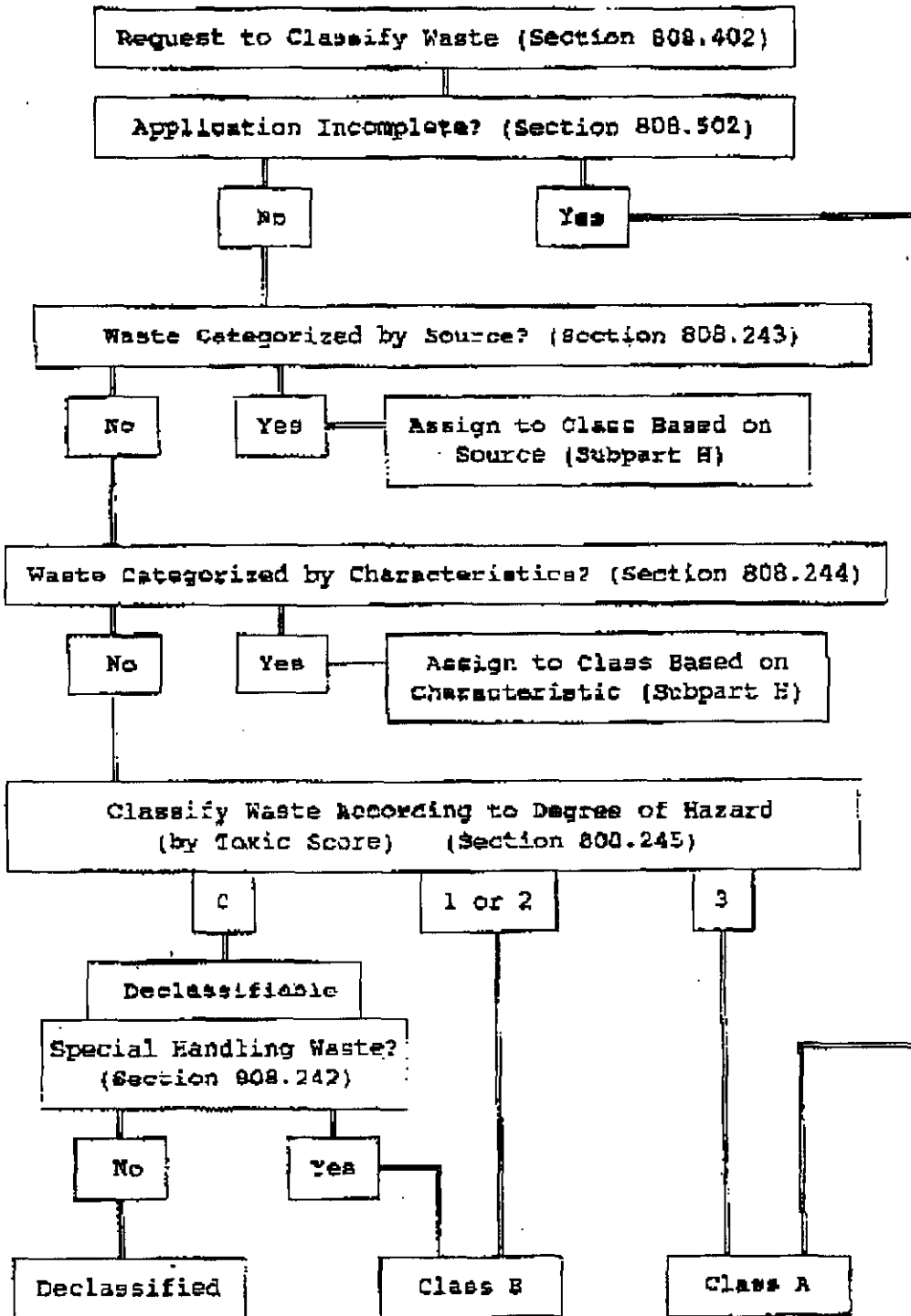
- a) A generator who has received a wastestream classification may request modification at any time by filing a new application. The generator shall file a new application whenever the waste it produces no longer meets the wastestream description.
- b) The Agency shall modify a wastestream classification whenever necessary to reflect amendments, repeals or additions to the Act or 35 Ill. Adm. Code: Chapter I. The Agency shall give the generator at least 30 days prior written notice before it modifies a wastestream classification.

**SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES**

**Section 808.600 Introduction**

- a) This Subpart defines "categories of wastes" by the type of source or generator producing the waste, by the process from which the waste arises, or by name. This Subpart also defines "categories of wastes," as "characteristics wastes," based on physical or chemical properties.
- b) Categorical and characteristic special (non-RCRA) wastes are assigned to a category defined under this Subpart based on the similarity of the physical, chemical or biological properties of the wastes to those properties designated as representative of that category, regardless of the degree of hazard of the individual wastes or wastestreams.

**Section 808.APPENDIX A Assignment of Special Waste to Classes**



**Section 808.APPENDIX B Toxicity Hazard**

This Appendix describes the method by which a generator of special waste or the waste source shall determine the toxic score for a waste.

- a) The wastestream equivalent toxic concentration (Ceq) is calculated as follows:

$$C_{eq} = A * \text{SUM}(C_i / B_i * T_i)$$

where:

- 1) SUM means the sum of the results of the calculation in parentheses for each component of the wastestream;
- 2)  $C_i$  is the concentration of component  $i$  as a percent of the waste by weight;
- 3)  $T_i$  is a measure of the toxicity of component  $i$ , as provided in subsection (h);
- 4)  $A$  is a constant equal to 300; and

BOARD NOTE:  $A$  is a constant used to allow the entry of percent values for  $C_i$ , and to adjust the results so that a reference material, 100 percent copper sulfate, with an oral toxicity of 300 mg/kg, achieves an equivalent toxic concentration of 100.

- 5)  $B_i$  is a conversion factor used to convert the toxicity of component  $i$  ( $T_i$ ) to an equivalent oral toxicity.  $B_i$  is determined from subsection (i).

- b) The toxic amount ( $M$ ) is calculated as follows:

$$M = S * C_{eq}$$

where:

- 1)  $S$  is the maximum size of a wastestream shipment in kg/month (Such maximum size shall be specified as a condition of the wastestream classification.); and
- 2)  $C_{eq}$  is the equivalent concentration from subsection (a).

- c) The toxic score is calculated as follows:

- 1) If the toxic amount ( $M$ ) is less than 100, the toxic score is 0.
- 2) If the toxic amount is greater than or equal to 100 and less than 1000, the toxic score is 1.

- 3) If the toxic amount is greater than or equal to 1000 and less than 10,000, the toxic score is 2.
- 4) If the toxic amount is greater than or equal to 10,000, the toxic score is 3.

BOARD NOTE: 100 kg/month of the reference material, 100 percent copper sulfate, has a "toxic amount" of 10,000, defining the borderline between a "toxic score" of 2 or 3 for a small quantity generator.

d) The toxic score shall be used as follows:

- 1) If the toxic score is 0 or 3, the toxic score shall be used for the purposes of Section 808.245 without adjustment.
- 2) If the toxic score is 1 or 2, the toxic score shall be adjusted based on environmental fate, pursuant to subsections (e), (f) and (g).

e) The environmental fate score (F) is calculated as follows:

$$F = \text{SUM}(C_i * L_i)$$

where:

- 1) SUM means the sum of the results of the calculation in parentheses for each component of the wastestream;
- 2)  $C_i$  is the concentration of component  $i$  as a percent of the waste by weight; and
- 3)  $L_i$  is the environmental level of component  $i$ , as determined by subsection (j).

f) The toxic score is adjusted as follows:

- 1) If the environmental fate score (F) is less than 100, subtract 1 from the toxic score;
- 2) If the environmental fate score is greater than or equal to 100 and less than 200, the toxic score is not modified;
- 3) If the environmental fate score is greater than or equal to 200, add 1 to the toxic score.

- g) Use the toxic score or adjusted toxic score calculated pursuant to subsections (b) through (f) for the purposes of Section 808.245.
- h) Sources of toxicity data.
  - 1) The generator is required to provide information to substantiate that any waste is other than a type A waste.
  - 2) Carcinogens and mutagens. If available, use a  $TD_{50}$  oral rat to represent toxicity based on carcinogenicity and mutagenicity. Otherwise:
    - A) Carcinogens are assigned a Ti of 0.1 mg/kg; and
    - B) Mutagens are assigned a Ti of 0.6 mg/kg.
  - 3) Toxicity values shall be selected according to the following criteria:
    - A) Toxicities are converted to equivalent oral toxicities as specified in subsection (i);
    - B) Toxicity values are ranked by source according to the following priorities, with the sources listed in descending order of priority.
      - i) First oral rat; then inhalation rat; then dermal rabbit; then aquatic toxicity.
      - ii) If data from the bases is unavailable, then other mammalian toxicity values;
    - C) If there is more than one toxicity value for the toxicity from the highest priority available source, the lowest (most toxic) equivalent oral toxicity value is used.
- i) Conversion factors for equivalent oral toxicities. The following conversion factors must be used to convert toxicity values to equivalent oral toxicities (Bi) (If a carcinogen or mutagen is assigned a value for Ti in the absence of a  $TD_{50}$ , Bi is assigned a value of 1.):

| Toxicity measure | Units | Bi |
|------------------|-------|----|
| Oral - $LD_{50}$ | mg/kg | 1. |



|  |       |      |
|--|-------|------|
| Carcinogen/mutagen - TD <sub>50</sub>    | mg/kg | 1.   |
| Aquatic - 48 or 96 hour LC <sub>50</sub> | ppm   | 5.   |
| Inhalation - LC <sub>50</sub>            | mg/l  | 25.  |
| Dermao - LD <sub>50</sub>                | mg/kg | 0.25 |

j) Environmental levels. If the waste constituent is innocuous, the environmental level (Li) is equal to 0. Otherwise, Li for a component is the highest level for that constituent in the following table, based on bioaccumulation, persistence and solubility. (If a value on the boundary between ranges, the higher value of Li is used.):

|   | Bioaccumulation |      | Persistence |      | Solubility |        | Li |
|---|-----------------|------|-------------|------|------------|--------|----|
|   | Min.            | Max. | Min.        | Max. | Min.       | Max.   |    |
| 5 | ---             |      | 365         | ---  | 10,000     | ---    | 3  |
| 4 | 5               |      | 30          | 365  | 1000       | 10,000 | 2  |
| 0 | 4               |      | 0           | 30   | 0          | 1000   | 1  |

- 1) "Innocuous" waste constituents are those for which BiTi, as determined pursuant to subsection (a), is greater than 5000mg/kg.
- 2) Bioaccumulation is measured as the logarithm to the base 10 of the n-octanol/water partition coefficient for the waste constituent, as measured pursuant to ASTM E 1147, incorporated by reference in Section 808.111.
- 3) Persistence is determined pursuant to subsection (k).
- 4) Solubility is measured as parts per million on a weight basis. Solubility may be measured pursuant to ASTM E 1148, incorporated by reference in Section 808.111.

k) Persistence. If available, a value for persistence, measured, pursuant to subsection (k)(1), must be used. Otherwise, the table of subsection (k)(2) must be used.

- 1) Persistence must be measured pursuant to ASTM E 896, incorporated by reference in Section 808.111.

- 2) Persistence may be estimated using the following table. (The longest half-life indicated must be used for constituents which fit into more than one category.):

| Type of Compound or Material            | Half Life (days) |
|---|------------------|
| Metal, metal oxide or inorganic oxide   | 366              |
| Inorganic salts                         | 366              |
| Asbestos                                | 366              |
| Clay                                    | 366              |
| Plastics or polymers                    | 366              |
| Pesticides                              | 366              |
| Halogenated hydrocarbons                | 366              |
| Polyaromatic hydrocarbons and biphenyls | 366              |
| Phthalate esters                        | 366              |
| Paper products                          | 366              |
| Fats, oils and greases                  | 366              |
| Resins and pigments                     | 366              |
| Aromatic and alicyclic hydrocarbons     | 31               |
| Aliphatic hydrocarbons                  |                  |
| -More than 10 carbons                   | 31               |
| -10 carbons or less                     | 1                |
| Waste constituents not otherwise listed | 366              |

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING  
PART 809  
NONHAZARDOUS SPECIAL WASTE HAULING AND THE UNIFORM  
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809.902 Disposal Methods (Repealed)  
809.903 Rendering Innocuous by Sterilization (Repealed)  
809.904 Rendering Innocuous by Incineration (Repealed)  
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**Appendix A Old Rule Numbers Referenced (Repealed)**

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

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

**SUBPART A: GENERAL PROVISIONS**

**Section 809.101 Authority, Policy and Purposes**

Pursuant to the authority contained in Sections 5, 10, 13, 21, 22, 22.01, and 22.2 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22, and 22.2], and consistent with the policy and purposes expressed in Section 20 [415 ILCS 5/20] thereof, the Board adopts this Part. This Part prescribes the procedures for the

Uniform Hazardous Materials Transportation and Registration Program and for the issuance of permits to nonhazardous special waste transporters; for the inspection and numbering of vehicles; and for proper hauling of special wastes to approved disposal, storage and treatment sites. It is the purpose of this Part to control only wastes as defined herein.

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

#### **Section 809.102 Severability**

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

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

#### **Section 809.103 Definitions**

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Board" means the Illinois Pollution Control Board.

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

*"Garbage" means the waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage and sale of produce. [415 ILCS 5/3.11](See "Waste.")*

*"Hazardous waste" means a waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential threat to human health or to the environment*

*when improperly treated, stored, transported or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to agency guidelines consistent with the requirements of the Act and Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. [415 ILCS 5/3.15]*

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

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

*"Industrial process waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. [415 ILCS 5/3.17]*

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

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

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

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

"Off-site" means any site that is not "on-site", as defined in this Section.

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

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

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

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

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

*"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assignee. [415 ILCS 5/3.26]*

*"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means.*

*"Pollution control waste" includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, scrubber sludges and chemical spill cleanings. [415 ILCS 5/3.27]*



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

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

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

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

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

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations under the Act. [415 ILCS 5/3.43]

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

"Special waste" means any of the following:

*Potentially infectious medical waste;*

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

*Industrial process waste or pollution control waste, except:*

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

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

*Regulated asbestos-containing waste materials, as defined under the National Emission Standards for Hazardous Air Pollutants in 40 CFR 61.141;*

*Polychlorinated biphenyls (PCBs) regulated pursuant to 40 CFR 761;*

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

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

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

*As may otherwise be determined under Section 22.9 of the Act.  
[415 ILCS 5/3.45]*

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

"Spill" means any accidental discharge of special waste.

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

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

"Treatment" means any method, technique or process, including neutralization

*designed to change the physical, chemical or biological character or composition of any special waste so as to neutralize that waste or so as to render that waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of special waste to render it less dangerous or nonhazardous. [415 ILCS 5/3.49].* Treatment also includes reclamation, re-use and recycling of special waste.

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

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

"Uniform application" means the uniform registration and uniform permit application form established under the Uniform Program and provided by the Agency.

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

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

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

"Vehicle" means any *self-propelled motor vehicle, except a truck tractor without a trailer, designed or used for the transportation of hazardous waste.* [415 ILCS 5/22.2(1-5)(1)]

"Waste" means any *garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94 of the Act, or industrial discharges which are point sources subject to permits under Section 402 of the*

*Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (42 USC 2011 et seq.) or any solid or dissolved material from any facility subject to The Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. [415 ILCS 5/3.53]*

(Source: Amended at 24 Ill. Reg. 14747, effective September 25, 2000)

**Section 809.104 Incorporations by Reference**

The Board incorporates the following material by reference:

- a) CFR (Code of Federal Regulations). A copy is available from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402 (202) 783-3238.  

|                |        |
|----------------|--------|
| 49 CFR 171     | (1996) |
| 49 CFR 172     | (1996) |
| 49 CFR 177     | (1996) |
| 49 CFR 178     | (1996) |
| 49 CFR 180     | (1996) |
| 49 CFR 383     | (1996) |
| 49 CFR 387     | (1996) |
| 49 CFR 390-397 | (1996) |
- b) The Report of the Alliance for Uniform HazMat Transportation Procedures, November 17, 1993. A copy is available from the U.S. Department of Transportation, 400 Seventh Street, SW, Washington D.C. 20590.
- c) The Final Report: Uniform Program Pilot Project, March 15, 1996. A copy is available from the U.S. Department of Transportation, 400 Seventh Street, SW, Washington D.C. 20590 or on the internet at <http://www.fhwa.dot.gov/omc/alliance.html>.
- d) State Program Administrator's Manual, Uniform Program, Alliance for Uniform HazMat Transportation Procedures, revised version, September 10, 1997. A copy is available from the National Governors' Association, 444 North Capitol Street, Suite 267, Washington D.C. 20001 or the National Conference of State Legislatures, Attn: Alliance Project Manager, 1560 Broadway, Suite 700, Denver CO 80202.
- e) This Section incorporates no later editions or amendments.

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.105 Public Records**

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

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS**

**Section 809.201 Nonhazardous Special Waste Hauling Permits-General**

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

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.202 Applications for Nonhazardous Special Waste Hauling Permit-Contents**

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

- a) Name, address, telephone number and location of the nonhazardous special waste hauling vehicle owner and operator applying for the permit;
- b) A description of the number and types of nonhazardous special waste hauling vehicles and tanks to be used;
- c) An agreement by the nonhazardous special waste hauling vehicle owner and the operator identified in Section 809.202(a) that:

- 1) Nonhazardous special waste loading, hauling and unloading will be conducted in compliance with all applicable State and federal laws and regulations;
  - 2) All nonhazardous special waste hauling vehicles and tanks used in nonhazardous special waste hauling will be clean and in good repair at all times when so employed;
  - 3) All nonhazardous special waste hauling vehicles, tanks and associated piping, valving, etc., will be constructed and maintained to prevent leakage or spillage, and shall be cleanable;
  - 4) No waste may be mixed with other wastes in one tank or on one nonhazardous special waste hauling vehicle if such mixture results in a hazardous combination likely to cause explosion, fire or release of a dangerous or toxic gas or in violation of any applicable State or federal law or regulation;
  - 5) The nonhazardous special waste hauling equipment and procedures to be used shall be proper for the permitted service, be safe for the transporters, handlers, and others, and meet the requirements of all other applicable State and federal laws and regulations; and
- d) The application may require additional information deemed necessary by the Agency consistent with the requirements of the Act and Board regulations.

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

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

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

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

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

- a) An application for nonhazardous special waste hauling permit is considered filed on the date the Agency receives a properly completed application on the form prescribed or provided by the Agency and with correct fees.
- b) If the Agency fails to take final action (which includes granting or denying the nonhazardous special waste hauling permit as requested, or by granting the nonhazardous special waste hauling permit with conditions) within 90 days after the date the completed application is filed, the applicant may deem the nonhazardous special waste hauling permit granted for a period of one calendar year commencing on the 91st day after the application was filed.
- c) The Agency will send all denials by U.S. Registered or Certified Mail, Return Receipt Requested. All other final Agency decisions may go by regular U.S. Mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.
- d) The Agency will require the application to be complete. If incomplete, the application will be returned, and the transporter will be required to resubmit a complete application. The application must be consistent with the provisions of the Act and Board regulations. The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the permit.
- e) When an application is denied because it fails to comply with the Act or Board regulations, any fees submitted with the application will be non-refundable. Any subsequent re-filing of the application will be considered a new application for which an application fee must be included in accordance with Section 22.2 of the Act.
- f) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and returned to the Agency within 30 days after the initial date-stamped rejection.

(Source: Amended at 24 Ill. Reg. 14747, effective September 25, 2000)

**Section 809.205 Nonhazardous Special Waste Hauling Permit Conditions**

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

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.206 Nonhazardous Special Waste Hauling Permit Revision**

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

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.207 Transfer of Nonhazardous Special Waste Hauling Permits**

No nonhazardous special waste hauling permit is transferable from one person to another.

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.208 Nonhazardous Special Waste Hauling Permit Revocation**

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

(Source: Amended at 24 Ill. Reg. 14747, effective September 25, 2000)

**Section 809.209 Permit No Defense**

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



(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.210      General Exemption from Nonhazardous Special Hauling Permit Requirements**

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

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999 )

**Section 809.211      Exemptions for Nonhazardous Special Waste Transporters**

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

- a) Any person licensed in accordance with the Private Sewage Disposal Licensing Act [225 ILCS 225] and who hauls only septic tank pumpings.
- b) Any person who hauls only livestock waste intended for land application pursuant to 35 Ill. Adm. Code 560.
- c) Transporters of municipal water or wastewater treatment plant sludge that is to be applied to land and that is regulated under a sludge management scheme approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- d) Any person licensed in accordance with the Illinois Dead Animal Disposal Act [225 ILCS 610] and who hauls only grease, meat packing scraps, dead animals and parts of animals for delivery to a renderer.
- e) Any person operating under rules and regulations adopted pursuant to the Illinois Oil and Gas Act [225 ILCS 725] and who hauls only oil and gas extraction wastes as defined in that Act.
- f) Any person who hauls only radioactive wastes as defined by the Radiation Protection Act [420 ILCS 40].
- g) Any person who hauls only coal combustion fly ash.
- h) Any person who hauls only declassified waste or refuse.

- i) Any person who hauls only special waste exempted by 35 Ill. Adm. Code 808.123 (small quantity generators of 220 pounds or less per month of special waste).
- j) Any person who hauls potentially infectious medical waste that is regulated under 35 Ill. Adm. Code Subtitle M.
- k) Any person who hauls used tires regulated under 35 Ill. Adm. Code 848.
- l) Any person who hauls used oil subject to regulation as used oil pursuant to 35 Ill. Adm. Code 739.

(Source: Amended at 24 Ill. Reg. 14747, effective September 25, 2000)

**Section 809.212 Duration of Nonhazardous Special Waste Hauling Permits**

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**SUBPART C: DELIVERY AND ACCEPTANCE**

**Section 809.301 Requirements for Delivery of Nonhazardous Special Waste to Transporters**

No person may deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste transporter who holds a current nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or C of this Part. A manifest is not required to be delivered to a transporter who hauls used oil subject to regulation as used oil pursuant to 35 Ill. Adm. Code 739 and who has registered as a used oil transporter and obtained an Illinois Special Waste identification number.

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

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

- a) No person may accept any special waste for disposal, storage or treatment within Illinois from a special waste transporter unless the special waste transporter has a valid nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or J of this Part and concurrently presents to the receiver of the special waste, or the receiver's agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates the receiver's facility as the destination for the special waste. A manifest is not required to be presented by a transporter who hauls used oil subject to regulation as used oil pursuant to 35 Ill. Adm. Code 739, and who has registered as a used oil transporter and obtained an Illinois Special Waste identification number.
- b) No person may deliver special waste in Illinois for disposal, storage or treatment unless the person who accepts the special waste has a current, valid operating permit issued by the Agency and the necessary supplemental permits required by 35 Ill. Adm. Code 807, as well as all other applicable permits as required by the Act and Board regulations.

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

**SUBPART D: PERMIT AVAILABILITY AND SYMBOLS**

**Section 809.401 Permit Availability**

Upon issuance of a nonhazardous special waste hauling permit or a Uniform Program registration and permit, the owner and operator of any such vehicle used to transport nonhazardous special or hazardous waste shall maintain within the vehicle a legible photocopy of the nonhazardous special waste hauling permit or Uniform Program registration and permit. Upon request, issuance of the nonhazardous special waste hauling permit or Uniform Program registration and permit shall be disclosed by the owner and operator of the vehicle to any representative of the State of Illinois (including, but not limited to, the Agency), any generator of the special waste, or any treatment, storage, or disposal facility that has handled, is handling, or will handle the special waste. Upon request by such representative, the transporter shall make available a photocopy of the nonhazardous special waste hauling permit or Uniform Program registration and permit to the representative. The owner and operator of the vehicle shall also comply with any otherwise applicable federal regulations.

(Source: Amended at 24 Ill. Reg. 14747, effective September 25, 2000)

**Section 809.402 Nonhazardous Special Waste Symbols**

All vehicles used to transport special waste and packages used to contain special waste shall be labeled, marked and placarded in accordance with regulations adopted by the Illinois Department of Transportation or the United States Department of Transportation or the United States Environmental Protection Agency, whichever has jurisdiction.

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

**SUBPART E: MANIFESTS, RECORDS AND REPORTING**

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

- a) a) Any person who delivers special waste to a permitted nonhazardous special or hazardous waste transporter shall complete a uniform hazardous waste manifest to accompany the special waste from delivery to the destination of the special waste. The manifest form will be provided or prescribed by the Agency. A manifest is not required to accompany deliveries of used oil by a transporter who hauls used oil subject to regulation as used oil pursuant to 35 Ill. Adm. Code 739, and who has registered as a used oil transporter and obtained an Illinois Special Waste identification number.
- b) The transporter shall include in the manifest the following:
  - 1) The name of the generator of the special waste and generator number;
  - 2) Information stating when and where the special waste was generated;
  - 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
  - 4) The name and permit number of the transporter;
  - 5) The date of delivery; and
  - 6) The classification and quantity of the special waste delivered to the transporter.
- c) Manifest copies to be sent to the Agency:

- 1) Every person who delivers RCRA hazardous waste or polychlorinated biphenyl (PCB) wastes to a transporter shall submit a copy of the Illinois manifest to the Agency within two days after the shipment. Every person who accepts RCRA hazardous waste or PCB waste from a transporter shall submit a copy of the Illinois manifest to the Agency within 30 days after receipt.
  - 2) A person who delivers RCRA hazardous waste or PCB wastes to a transporter on another state's manifest, such as where the destination state requires use of its manifest, does not have to submit manifest copies to the Agency.
  - 3) A person who delivers non-RCRA hazardous wastes or non-PCB wastes to a transporter does not have to send a copy of the manifest to the Agency. A person who accepts non-RCRA hazardous waste or non-PCB wastes from a transporter does not have to send a copy of the manifest to the Agency.
- d) The manifest will consist of at least four parts, in contrasting colors, such that an entry or signature on one part will be directly reproduced upon all underlying parts. The top part of the manifest shall be signed by the person who delivers special waste to a special waste transporter, acknowledging the delivery. The top part of the manifest shall also be signed by the special waste transporter, acknowledging receipt of the special waste. The person who delivers special waste to a special waste transporter shall retain the designated parts of the manifest as a record. The remaining parts of the manifest shall accompany the special waste shipment. At the destination, the manifest shall be signed by the person who accepts special waste from a special waste transporter, acknowledging receipt of the special waste.
- e) A permitted site that receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter shall be conducted under a manifest initiated by the permitted disposal, storage or treatment site.
- f) In all cases, the special waste transporter shall deliver the designated parts of the complete, signed manifest to the person who accepts delivery of special waste from the transporter. The special waste transporter shall retain the designated part of the complete, signed manifest as a record of delivery to a permitted disposal, storage or treatment site. In addition, at the end of each month, or longer if

approved by the Agency, the owner and the operator of the permitted disposal, storage or treatment site who accepts special waste from a special waste transporter shall send the designated part of the completed manifest to the person who delivered the special waste to the special waste transporter.

- g) Every generator who delivers special waste to a special waste transporter, every person who accepts special waste from a special waste transporter and every special waste transporter shall retain their respective parts of the special waste manifest as a record of all special waste transactions. These parts shall be retained for three years and will be made available at reasonable times for inspection and photocopying by the Agency.

BOARD NOTE: The manifest requirements of 35 Ill. Adm. Code 722, 724 and 725 relative to RCRA hazardous wastes are not affected by this subsection. Generators and receiving facilities subject to those Parts shall continue to supply designated copies of all manifests to the Agency.

- h) Every generator who delivers nonhazardous special waste via a transporter to a facility located outside Illinois shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports shall, at a minimum, include the information specified in subsection (i) of this Section and should be received by the Agency no later than February 1.
- i) Every annual report required to be filed with the Agency by a generator for waste going out of state pursuant to subsection (h) of this Section shall include the following:
- 1) The IEPA identification number, name and address of the generator;
  - 2) The period (calendar year) covered by the report;
  - 3) The IEPA identification number, name and address for each off-site treatment, storage or disposal facility to which waste was shipped during the period;
  - 4) The name and IEPA special waste hauling number of each transporter used during the period for shipments to a treatment, storage or disposal facility;

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

(Source: Amended at 24 Ill. Reg. 14747, effective September 25, 2000)

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

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

(Source: Repealed at 23 Ill. Reg. 6842, effective July 1, 1999)

**SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS**

**Section 809.701      General Provision**

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

(Source: Amended at 23 Ill. Reg. 6842, effective July 1, 1999)

**SUBPART H: EFFECTIVE DATES**

**Section 809.801      Compliance Date**

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

**Section 809.802      Exceptions (Repealed)**

(Source: Repealed at 23 Ill. Reg. 6842, effective July 1, 1999)

**SUBPART I: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE**

**Section 809.901      Definitions (Repealed)**

(Source: Repealed at 16 Ill. Reg. 130, effective January 1, 1992)

**Section 809.902      Disposal Methods (Repealed)**

(Source: Repealed at 16 Ill. Reg. 130, effective January 1, 1992)



**Section 809.903      Rendering Innocuous by Sterilization (Repealed)**

(Source: Repealed at 16 Ill. Reg. 130, effective January 1, 1992)

**Section 809.904      Rendering Innocuous by Incineration (Repealed)**

(Source: Repealed at 16 Ill. Reg. 130, effective January 1, 1992)

**Section 809.905      Recordkeeping Requirements for Generators (Repealed)**

(Source: Repealed at 16 Ill. Reg. 130, effective January 1, 1992)

**Section 809.906      Defense to Enforcement Action (Repealed)**

(Source: Repealed at 16 Ill. Reg. 130, effective January 1, 1992)

**SUBPART J: UNIFORM PROGRAM**

**Section 809.910      Uniform State Hazardous Waste Transportation Registration and Permit Program**

- a) Beginning July 1, 1998, no person may transport offsite any hazardous waste (or mixture of hazardous and nonhazardous waste) into, through, or within Illinois, without registering and obtaining a permit under the Uniform Program, or in violation of any permit condition for any permit required under this subsection and issued by the Agency or by any participating state.
  - 1) A transporter with its principal place of business in Illinois shall obtain a uniform registration and a uniform permit from the Agency.
  - 2) A transporter with its principal place of business in another state shall designate another participating state in the Uniform Program as its base state and shall obtain a uniform registration from the base state, if the base state requires registration, and shall obtain a uniform permit from the base state before transporting hazardous waste in Illinois.
- b) Small quantity generators of 100 kilograms (220 pounds) or less per month are exempt from the uniform registration and uniform permit requirements of this Part, except generators of acute hazardous waste as specified in 35 Ill. Adm. Code 721.105(e).

- c) A hazardous waste transporter shall comply with all the provisions of 49 CFR 171, 172, 177, 178, 180, 383, 387, and 390-397, incorporated by reference in Section 809.104, if the hazardous waste is transported in Illinois.

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.911 Application for a Uniform Permit**

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

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.912      Application for Uniform Registration**

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

temporary evidence of compliance with the Uniform Program; and

- C) An expiration date 180 days from the date the Letter of Filing is issued.
- 5) On or before the expiration of any Letter of Filing the Agency will take final action on the completed application or the applicant may deem the uniform registration granted for the one year registration period, commencing on the day the completed application was filed with the Agency.
- c) The uniform registration is valid for a period of one year and must be renewed annually.
  - d) The Agency will send all denials and applications granted with conditions by U.S. Registered or Certified Mail, return receipt requested. All other final Agency decisions may be sent by regular U.S. mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.
  - e) The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application.

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.913 Payment of Processing and Audit Fees**

Beginning July 1, 1998, and annually thereafter, each transporter designating Illinois as its base state must pay a \$250 processing and audit fee for administering the uniform registration and permit program as set forth in Section 22.2 of the Act.

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.914 Payment of Apportioned Mile Fees**

- a) Beginning July 1, 1998, and annually thereafter, all transporters whose base state is Illinois shall pay registration fees to the Agency for apportioned miles for all states that are participating in the uniform registration program and in which the transporter hauls hazardous waste. The Agency shall transmit to other participating states the registration fees collected each calendar quarter on behalf of the other participating states

within 30 days after the last day of the calendar quarter. A transmittal report will accompany each payment and will summarize the fees collected and list the transporters from which the fees were collected. The level of hazardous material transportation activity within a state should be calculated using the instructions in the uniform application and should be based on two factors:

- 1) The percentage of mileage in the state; and
  - 2) The percentage of the transporter's total activity that involves the transport of hazardous wastes.
- b) For Illinois, the registration fee should be calculated by multiplying the percentage of Illinois transportation by the percentage of hazardous waste transportation multiplied by the total number of vehicles the transporter operates multiplied by the \$20 registration fee set forth in Section 22.2 of the Act.
- c) A transporter should determine its percentage of Illinois transportation by dividing the number of miles it traveled in Illinois during the previous year by the number of miles it traveled nationwide during the previous year. If a transporter operates only in Illinois, it should use 100 percent of the miles traveled as its percentage of Illinois transportation. A transporter may separately calculate fees payable for each fleet the transporter operates.
- d) A transporter shall determine its percentage of hazardous waste transportation by using a method based on general percentage ranges. A transporter shall determine its percentage of hazardous waste transportation as follows:
- 1) For less-than-truckload shipments, the transporter should divide the weight of the transporter's hazardous waste shipments transported during the previous year by the total weight of all shipments transported during the previous year.
  - 2) For the truckload shipments, the transporter should divide the number of shipments transported during the previous year for which placarding, marking, or manifesting was required by the Code of Federal Regulations, Title 49, Part 172, by the total number of all shipments transported during the previous year.
  - 3) A transporter that transports both truckload and less-than-truckload shipments of hazardous waste should determine its percentage of hazardous waste transportation by calculating the percentage of

business that is hazardous waste transportation on a proportional basis with the percentage of business that is not hazardous waste transportation.

- 4) A transporter may use data from its most recent complete fiscal year or the most recent complete calendar year in calculating the percentages required in this Subpart for transportation conducted during the previous year. If the applicant elects to change the reporting year in a subsequent application, the applicant must inform the Agency of its intention in writing.

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.915 Submittal of Fees**

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

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.916 Previously Permitted Transporters**

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.917 Uniform Registration and Uniform Permit Conditions**

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.918 Uniform Registration and Uniform Permit Revision**

Changes to the uniform registration or uniform permit, or the applications, issued pursuant to this Part can only be made by the U.S. Secretary of Transportation or other entity authorized pursuant to federal law. The Agency will revise any uniform registration and uniform permit issued under this Part to conform with any such changes and notify the permittee in writing. Failure of the Agency to issue a revised



uniform registration or uniform permit is not a defense to a violation of any changed permit condition.

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.919      Transfer of Uniform Registration and Uniform Permits**

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.920      Audits and Uniform Registration and Uniform Permit  
Revocation**

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

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Section 809.921      Permit No Defense**

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

(Source: Added at 23 Ill. Reg. 6842, effective July 1, 1999)

**Appendix A**  
**Old Rule Numbers Reference (Repealed)**

(Source: Repealed at 23 Ill. Reg. 6842, effective July 1, 1999)