

ILLINOIS POLLUTION CONTROL BOARD  
December 17, 2009

IN THE MATTER OF: )  
)  
PROPOSED AMENDMENTS TO THE ) R06-20 (Docket A)  
BOARD'S SPECIAL WASTE ) (Rulemaking - Land)  
REGULATIONS CONCERNING )  
USED OIL, 35 ILL. ADM. CODE 739, 808, )  
809 )

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by A.S. Moore)

Today the Board adopts for second notice a proposal amending its used oil management standards and special waste regulations. *See* 35 Ill. Adm. Code 739, 808, 809. NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association (NORA), initiated this proceeding by filing a rulemaking proposal. On August 20, 2009, the Board adopted a second first-notice proposal. *See* 33 Ill. Reg. 12426-58 (Sept. 11, 2009). The proposed amendments are intended to exempt from the manifesting requirements of Parts 808 and 809 both used oil defined by and managed in accordance with Part 739 and specific mixtures of used oil and other materials. With regard to those specific mixtures, the Board proposes to amend the Part 739 tracking requirements to include information required by a manifest.

In addition, after reviewing comments received from the Illinois Environmental Protection Agency (Agency) and NORA during the first-notice comment period, the Board today opens a subdocket B in this rulemaking in order to address definitions in Sections 739.100, 808.110, and 809.103, which were not included in the Board's second first-notice opinion and order. *See* 35 Ill. Adm. Code 739.100, 808.110, 809.103; Proposed Amendment of the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20 (Aug. 20, 2009); *see also* 5 ILCS 100/5-40(b) (2008) ("Each agency shall give at least 45 days' notice of its intended action to the general public. This first notice period shall commence on the first day the notice appears in the Illinois Register."); 33 Ill. Reg. 12426-58 (Sept. 11, 2009).

In the opinion below, the Board first provides the procedural background of this rulemaking. Next, the Board addresses public comments received since publication of the first-notice proposal. After discussing issues raised in those comments, the Board reaches its conclusions on them. The order following this opinion then sets forth the proposed amendments for second -notice.

**PROCEDURAL BACKGROUND**

**Procedural Background Prior to Original First Notice Opinion and Order**

On December 13, 2005, NORA filed proposed amendments to the Board's special waste regulations accompanied by a statement of reasons supporting the proposal. On the same date, NORA also filed a motion to waive signature requirements. *See* 415 ILCS 5/28(a) (2008); 35 Ill. Adm. Code 102.202(g) (requiring petition signed by at least 200 persons).

In an order dated January 5, 2006, the Board accepted NORA's proposal for hearing and granted NORA's motion to waive signature requirements. In the same order, the Board directed NORA to address in writing three identified informational deficiencies in the proposed rule and statement of reasons.

In an order dated April 5, 2006, the hearing officer scheduled the first hearing for May 25, 2006, in Springfield and set a deadline of May 11, 2006, to pre-file testimony for it. The order set the same deadline for NORA to address the informational deficiencies identified by the Board's January 5, 2006, order. The order also scheduled a second hearing for June 29, 2006, in Chicago.

On May 1, 2006, the Board received the Agency's comments on NORA's proposal. On May 10, 2006, Theodore J. Dragovich, manager of the Disposal Alternatives Unit in the Agency's Bureau of Land Permit Section, pre-filed testimony for the first hearing.

On May 11, 2006, NORA orally requested an extension of the May 11, 2006, deadline for pre-filing testimony and the supplemental statement of reasons requested in the Board's January 5, 2006, order. Specifically, NORA requested an extension of that deadline to May 16, 2006. In an order dated May 11, 2006, the hearing officer granted the motion and extended to May 16, 2006, the deadline to file pre-filed testimony and the supplemental statement of reasons.

On May 16, 2006, four persons pre-filed testimony on behalf of NORA: Christopher Harris, General Counsel to NORA; Victoria Custer, Vice President of Southwest Oil, a director on NORA's board and Chair of NORA's Illinois Working Group; Mike Lenz, an Environmental Compliance Specialist for Future Environmental; and Greg Ray, Vice President of Business Management for Heritage-Crystal Clean, LLC. Also on May 16, 2006, NORA filed its supplemental statement of reasons and its first *errata* sheet.

The Board held the first hearing as scheduled on May 25, 2006, in Springfield. Mr. Harris, Ms. Custer, Mr. Lenz, Mr. Ray, and Mr. Dragovich each testified at the first hearing. On June 5, 2006, the Board received the transcript of the first hearing.

In an order dated June 1, 2006, the hearing officer noted that the Agency sought to respond to questions raised at the first hearing by preparing those responses for the second hearing. In that order, the hearing officer directed the Agency to file responses with the Board in the form of a public comment by June 15, 2006. On June 15, 2006, the Agency filed Additional Testimony of Theodore J. Dragovich and the testimony of Christopher N. Cahnovsky, Regional Manager of the Agency's Bureau of Land in its Collinsville office.

The Board held the second hearing as scheduled on June 29, 2006 in Chicago. Mr. Dragovich and Mr. Cahnovsky testified on behalf of the Agency. Four persons testified on

behalf of NORA: Catherine A. McCord, Vice President of Environment, Health, and Safety for Crystal Clean; Dan R. Appelt of Safety-Kleen; Ms. Custer; and Mr. Lenz. On July 14, 2006, the Board received the transcript of the second hearing.

During the first and second hearings, the hearing officer entered into the record the following 18 hearing exhibits:

- Exhibit 1: Electronic Code of Federal Regulations 40 C.F.R. 279.1 – 279.82 (Standards for the Management of Used Oil)
- Exhibit 2: 35 Ill. Adm. Code 739.100 – 739.182 (Standards for the Management of Used Oil)
- Exhibit 3: 35 Ill. Adm. Code 808.100 – 808.600 (Special Waste Classifications)
- Exhibit 4: 35 Ill. Adm. Code 809.101 – 809.921 (Nonhazardous Special Waste Hauling and the Uniform Program)
- Exhibit 5: Testimony of Christopher Harris
- Exhibit 6: Testimony of Victoria Custer
- Exhibit 7: Testimony of Mike Lenz
- Exhibit 8: Testimony of Gregory Ray
- Exhibit 9: Supplemental Statement of Reasons and *Errata* Sheet #1
- Exhibit 10: Testimony of Theodore J. Dragovich
- Exhibit 11: Additional Testimony of Theodore J. Dragovich and Christopher N. Cahnovsky
- Exhibit 12: Safety-Kleen Oil Recovery Service/Sales Acknowledgement
- Exhibit 13: Crystal Clean Work Order (dated January 18, 2004)
- Exhibit 14: Future Environmental, Inc. Straight Bill of Lading
- Exhibit 15: Testimony of Catherine McCord on Behalf of NORA
- Exhibit 16: Additional Testimony of Dan Appelt, Safety-Kleen Systems, Inc.
- Exhibit 17: Safety-Kleen Tracking Document (dated May 22, 2006)
- Exhibit 18: Safety-Kleen Tracking Document (dated May 23, 2006)

During the second hearing, the participants agreed to a deadline of August 9, 2006, for filing post-hearing comments. On July 18, 2006, the hearing officer issued an order directing the participants to file post-hearing comments by August 9, 2006. On August 7, 2006, the Agency filed a motion for extension of time in which to file post-hearing comments. On the same date, the hearing officer issued an order granting the Agency's motion and extending the deadline for filing post-hearing comments to August 16, 2006.

On August 11, 2006, NORA orally moved to extend the deadline for filing post-hearing comments. On the same date, the hearing officer issued an order granting NORA's motion and extending the deadline for filing post-hearing comments to September 1, 2006.

Before the original deadline of August 9, 2006, the Board received post-hearing comments from the following persons on the dates specified:

- PC 2           Shaunti Stalluth, Industrial Water Services (July 28, 2006);
- PC 3           Lee J. Plankis; Senior Vice President of Operations, RS Used Oil Services, Inc. (July 28, 2006);
- PC 4           Rick Shipley; National Sales Manager, RS Used Oil Services, Inc. (July 28, 2006);
- PC 5           Ronald A. Winkle; President, RS Used Oil Services (July 28, 2006);
- PC 6           Dave Brown; President, United Waste Water Services, USI (July 28, 2006);
- PC 7           Ronald J. Plankis; Vice President, Consulting Services, Profit Consultants, Ltd. (July 28, 2006);
- PC 8           Ken Petruck; Vice President, Operations, Excel Environmental, Inc. (July 28, 2006);
- PC 9           Catherine A. McCord; Vice-President, Environment, Health, and Safety, Crystal Clean (July 31, 2006);
- PC 10          Michael Lenz; Environmental Compliance Specialist, Future Environmental (July 31, 2006)
- PC 11          Lin Longshore; Senior Vice-President, Environment, Health, and Safety, Safety-Kleen (July 31, 2006);
- PC 12          Jeffrey M. Posick, Waste Alternatives and Consulting, LLC (July 31, 2006);
- PC 13          John A. Oxford; Vice President of Compliance, Fuel Processors, Inc. (July 31, 2006);

- PC 14 John A. Oxford; Vice President of Compliance, Energy & Material Recovery, Inc. (July 31, 2006);
- PC 15 John A. Oxford; Vice President of Compliance, Industrial Oil, Inc. (July 31, 2006);
- PC 16 David Osbourne; Manager of Sales and Customer Service, Consolidated Recycling Co., Inc. (July 31, 2006);
- PC 17 Ken Reif, Valley Environmental Service (July 31, 2006);
- PC 18 Gary L. Gunderson; President, Recycle Technologies, Inc. (July 31, 2006);
- PC 19 Donald R. Kleine; Owner, Vortex Recycling (July 31, 2006);
- PC 20 Garry R. Allen (July 31, 2006);
- PC 21 Matthew Usher, Usher Oil Company (July 31, 2006);
- PC 22 Richard A. Kalin; Vice President, Noble Oil Services, Inc. (July 31, 2006);
- PC 23 Deanne Hartman; President/CEO, Approved Remediation and Recycling of Oil Waste, Inc. (July 31, 2006);
- PC 24 Victoria M. Custer; Vice President, Southwest Oil, Inc. (July 31, 2006);
- PC 25 Steve Rundell; President, Solvent Systems International, Inc. (July 31, 2006);
- PC 26 W.L. Briggs; President, Oil Re-Refining Company, Inc. (July 31, 2006);
- PC 27 Benjamin P. Cowart; President of General Partner, Vortex Energy, L.P. (August 1, 2006);
- PC 28 Scott D. Parker; Executive Director, NORA (August 1, 2006);
- PC 29 Laura M. Krist; Territory Manager, Jacobus Environmental Services (August 1, 2006);
- PC 30 Brett Morton; Senior Environmental Engineer/Product Stewardship, Shell Lubricants (August 2, 2006);
- PC 31 Chris McNeil; Compliance Officer, Aaron Oil Company, Inc. (August 2, 2006);  
and
- PC 32 John H. Datka; General Manager, Moore Oil Environmental Services, LLC (August 4, 2006).

On September 1, 2006, the Agency filed its post-hearing comments, and NORA filed its post-hearing brief.

In an e-mail on September 6, 2006, the Agency sought to correct two technical errors in citations to the Federal Register in its post-hearing comments. Responding by e-mail on September 7, 2006, NORA indicated that it did not object to those corrections but stated that it wished to respond to arguments that it believed the Agency had made for the first time in its post-hearing comments. Replying by e-mail, the Agency indicated that it objected to additional substantive comment. In an order dated September 8, 2006, the hearing officer directed the Agency to file correction of its post-hearing comments by September 21, 2006. On September 18, 2006, the Agency filed corrections to its post hearing comments. Also in the order dated September 8, 2006, the hearing officer allowed any participant to file a response to the post-hearing comments filed either by the Agency or by NORA on or before Monday, October 9, 2006. On October 10, 2006, NORA timely filed its response to the Agency's post-hearing comments, and the Agency timely filed its comments in response to NORA's post-hearing brief. The Agency's comments elicited two additional public comments addressing the Agency's arguments: one from Mr. Lenz on October 11, 2006, and one from Mr. Ray on October 23, 2006.

On November 5, 2007, NORA filed a "Rule Proposal Amendment." NORA's filing included a second *errata* sheet. NORA sought to withdraw its original proposal and to offer in its place the language contained in the second *errata* sheet. On November 19, 2007, the Agency filed a motion for extension to December 3, 2007, of the time in which to file a response to the rule proposal amendment. On December 3, 2007, the Agency filed its response to the rule proposal amendment.

As required by Section 27(b) of the Act (415 ILCS 5/27(b) (2008)), the Board requested in a letter dated February 22, 2006, that the Department of Commerce and Economic Opportunity (DCEO) determine whether it would conduct an economic impact study (EcIS) of this rulemaking proposal. DCEO did not respond to the Board's request. At the second hearing, the hearing officer noted the Board's request to DCEO for an EcIS and the lack of a response. No participant offered testimony with regard to that issue.

On May 1, 2008, the Board issued its original first notice opinion and order proposing amendments to the Board's special waste regulations. The proposed amendments appeared in the *Illinois Register* on May 30, 2008. 32 Ill. Reg. 8085-8102 (May 30, 2008).

### **Summary of Board's Original First Notice Opinion and Order**

In its original first notice opinion and order on May 1, 2008, the Board first proposed amendments intended to exempt from the manifesting requirements of the Board's special waste regulations (35 Ill. Adm. Code 808, 809) used oil that is defined by and managed in accordance with the Board's used oil management standards (35 Ill. Adm. Code 739). Proposed Amendment of the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 808, 809, R06-20, slip op. at 1, 56 (May 1, 2008).

Second, the Board proposed amendments intended to exempt from the Board's special waste hauling permit requirements (35 Ill. Adm. Code 808, 809) shipments that contain no special waste other than used oil that is defined by and managed in accordance with the Board's used oil management standards (35 Ill. Adm. Code 739). Proposed Amendment of the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 808, 809, R06-20, slip op. at 1, 56 (May 1, 2008).

Third, the Board specifically sought from the participants comment on whether to amend Part 739 to require that used oil tracking documents include information that would allow those tracking documents to satisfy requirements such as manifests under Parts 808 and 809. Additionally, in the event that a participant wished to amend Part 739 in this manner, the Board sought comment in the form of draft regulatory language that might enact such an amendment. Specifically, the Board sought to determine whether the record in this proceeding may be developed to support adoption of a proposal similar to that sought by NORA while addressing the concerns of the Agency. Proposed Amendment of the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 808, 809, R06-20, slip op. at 1-2, 55-56 (May 1, 2008).

### **Procedural History Following the Board's Original First Notice Opinion and Order**

On June 4, 2008, NORA filed a motion requesting a hearing following first notice. *See* 5 ILCS 100/5-40 (2008).

On June 13, 2008, the Agency filed its comments on the Board's first notice proposal.

In an order dated July 10, 2008, the Board granted NORA's motion for a hearing following first notice. In an order dated August 7, 2008, the hearing officer scheduled the third hearing for October 1, 2008, in Chicago. In the same order, the hearing officer set a deadline of September 17, 2008 for filing pre-filed testimony.

On September 15, 2008, the Agency pre-filed questions for NORA's witnesses at the third hearing. On September 19, 2008, NORA filed a motion to extend to September 22, 2008, the deadline to pre-file testimony for the third hearing. In an order dated September 29, 2008, the hearing officer granted NORA's motion to extend the deadline as requested. On September 22, 2008, the Board received pre-filed testimony from Mr. Harris on behalf of NORA and Mr. Lenz on behalf of Future Environmental in support of NORA.

The Board held the third hearing as scheduled on October 1, 2008, in Chicago. Four persons testified on behalf of NORA: Mr. Harris, Mr. Lenz, Mr. Ray, and Mr. Appelt. During the third hearing, the hearing officer entered into the record a single exhibit, a draft sample tracking document. On October 14, 2008, the Board received the transcript of the third hearing.

In an order dated October 15, 2008, the hearing officer set a deadline of December 15, 2008, for filing post-hearing comments and a deadline of January 14, 2009, for filing responses to those post-hearing comments. On December 15, 2008, the Agency filed its post-hearing comments, and NORA filed its post-hearing comments and proposed regulatory language. On

January 14, 2009, the Agency filed its response to NORA's post-hearing comments, and NORA filed its response to the Agency's post-hearing comments.

Between granting NORA's request for a third hearing and adopting its second proposal for first-notice, the Board received public comments from the following persons on the dates indicated:

- PC 45 Lisa Frede, Director of Regulatory Affairs, Chemical Industry Council of Illinois (September 22, 2008);
- PC 46 Mark Denzler, Vice President – Government Affairs, Illinois Manufacturers' Association (September 26, 2008);
- PC 47 Maria E. Leon, President, E.M.C. Oil Corp. (September 26, 2008);
- PC 48 Ronald A. Winkle, President, RS Used Oil Services, Inc. (September 26, 2008);
- PC 49 Roger L. Wilson, Operations Manager, Holston Environmental Services, Inc. (September 26, 2008);
- PC 50 James J. Noble, President, Noble Oil Services, Inc. (September 26, 2008);
- PC 51 Troy Hacker, Corporate Environmental, Health & Safety, Thermo Fluids, Inc. (September 26, 2008);
- PC 52 Chris Ricci, President, Ricky's Oil Service, Inc. (September 26, 2008);
- PC 53 Bill Briggs, President, ORRCO Oil Re-Refining Company (September 26, 2008);
- PC 54 Celeste M. Powers, CAE, Executive Director, Independent Lubricant Manufacturers Association (September 26, 2008);
- PC 55 Mark Howard, VP of Sales, Gencor Industries (September 26, 2008);
- PC 56 Kenneth B. Petruck, President, Excel Environmental, Inc. (September 26, 2008);
- PC 57 Maureen McGovern, President, The Chicago Petroleum Club (September 26, 2008);
- PC 58 David E. Carson, CEO, Consolidated Recycling Co., Inc. (September 26, 2008);
- PC 59 Lyle Salsbury, General Manager, Usher Oil Company (September 26, 2008);
- PC 60 William E. Darling, President, Mosner Energy Alternative, Inc. (September 26, 2008);



- PC 61 Roland A. Odenwald, Jr., Vice President, Gateway Petroleum Co., Inc. (September 26, 2008);
- PC 62 Patrick Kotter, Compliance Manager, ESI Environmental (September 26, 2008);
- PC 63 John Simon, Curran (September 26, 2008);
- PC 64 Ron Smith, Environmental Compliance Manager, Universal Lubricants, LLC (September 26, 2008);
- PC 65 Ken Reif, President, Valley Environmental Services (September 26, 2008);
- PC 66 Howard Miller, Sales Consultant, Solvent Systems International, Inc. (September 26, 2008);
- PC 67 John W. Van Hoesen, President, Van Hoesen Industries, Inc. d/b/a North Branch Environmental (September 26, 2008);
- PC 68 Keith Dunkelbarger, President, Modal Marketing, Inc. (September 26, 2008);
- PC 69 Thomas Rubasky, Director Oil Operations – West Group, Safety-Kleen (September 30, 2008);
- PC 72 Randall J. Boisvert, Environmental Manager, Hanson Heidelberg Cement Group (December 15, 2008);
- PC 73 Mark Whitmore, General Manager, Moore Oil Environmental (December 15, 2008);
- PC 76 Gregory Ray, CFO and Vice President of Business Management, Heritage – Crystal Clean, LLC (January 14, 2009); and
- PC 77 Michael Lenz, Environmental Compliance Specialist for Future Environmental (January 14, 2009).

On August 20, 2009, the Board issued a second first notice opinion and order proposing amendments to the Board's used oil management standards and its special waste regulations. The proposed amendments appeared in the *Illinois Register* on September 11, 2009. See 33 Ill. Reg. 12426-58 (Sept. 11, 2009).

#### **Procedural History Following the Board's Second First Notice Opinion and Order**

Since publication of its second proposal for first notice, the Board has received public comments from the following persons on the dates indicated:

- PC 78 William J. Kennedy, Director of Safety & Regulatory Compliance, RS Used Oil Services, Inc. (September 28, 2009);
- PC 79 Christopher Harris, General Counsel, NORA (September 28, 2009);
- PC 80 Tom Rubasky, Director Oil Operations, Safety-Kleen Systems, Inc. (September 28, 2009);
- PC 81 Luke Staengl, President and CEO, PESCO-BEAM Environmental Solutions, Inc. (September 28, 2009)
- PC 82 Michael Lenz, Future Environmental, Inc. (September 28, 2009);
- PC 83 Catherine McCord, Vice-President, Environment, Health, and Safety, Heritage-Crystal Clean, LLC (September 28, 2009);
- PC 84 Brandon Velek, Vice President, Intergulf Corporation (September 28, 2009);
- PC 85 Lisa Frede, Director of Regulatory Affairs, Chemical Industry Council of Illinois (October 1, 2009);
- PC 86 Troy Hacker, Corporate Environmental, Health & Safety Manager, Thermo Fluids, Inc. (October 5, 2009)
- PC 87 James P. Bruner, President, United Contractors Midwest, Inc. (October 5, 2009);
- PC 88 Marvin L. Traylor, Director of Engineering & Research, Illinois Asphalt Pavement Association (October 5, 2009);
- PC 89 Jim Tefft, Vice-President - Operations, Crystal Flash Energy (October 5, 2009);
- PC 90 Stephen A. Huckaba, Secretary, Howell Asphalt Company, Inc. (October 5, 2009);
- PC 91 K-Five Construction Corporation (October 5, 2009);
- PC 92 Chicago Materials Corporation (October 5, 2009);
- PC 93 DuPage Materials Corporation (October 5, 2009);
- PC 94 Daniel J. Gallagher, Vice President, Gallagher Asphalt Corporation (October 5, 2009);
- PC 95 Ray Mt. Joy, President, XERAY Systems, Inc. (October 5, 2009);
- PC 96 Rick Adams, Total Recycling Technologies (October 5, 2009);

- PC 97 John W. Van Hoesen, North Branch Environmental (October 5, 2009);
- PC 98 Gary L. Gunderson, President, Recycle Technologies, Inc. (October 5, 2009);
- PC 99 John Simon, Curran Contracting (October 5, 2009);
- PC 100 Ronald D. Swanson, CFO, Como Lube and Supplies, Inc. (October 5, 2009);
- PC 101 Thomas J. Gawlik, President & CEO, ESI Environmental (October 5, 2009);
- PC 102 Dennis R. Kelly (October 5, 2009);
- PC 103 Andrew Haag, President, Moore Oil Environmental (October 5, 2009);
- PC 104 John P. Faris, Chairman, Oilmen's Truck Tanks, Inc. (October 5, 2009);
- PC 105 Chris Ricci, President, Ricky's Oil Service (October 5, 2009);
- PC 106 Benjamin P. Cowart, Chairman & CEO, Vertex Energy, Inc. (October 5, 2009);
- PC 107 Donald R. Kleine, Owner, Vortex Recycling (October 5, 2009);
- PC 108 Jared Raftery, Vice President, Western Oil, Inc. (October 5, 2009);
- PC 109 Victoria M. Custer, Vice President, Southwest Oil, Inc. (October 5, 2009); and
- PC 110 Kenneth Petruck, President, Excel Environmental, Inc. (October 5, 2009).

On October 22, 2009, the Agency filed "Comments of the Illinois Environmental Protection Agency" (PC 111). On October 26, 2009, NORA filed comments (PC 112) addressing those submitted by the Agency.

## **DISCUSSION**

### **Summary of Second First Notice Opinion and Order**

In its opinion and order on August 20, 2009, the Board adopted for first notice publication amendments designed to exempt from the requirement to file a special waste manifest the following: (1) used oil, defined by and managed in accordance with Part 739; (2) mixtures of used oil and hazardous waste, both mixed and generated by a conditionally exempt small quantity generator (CESQG), provided that mixture contains more than fifty percent used oil by volume or weight; (3) used oil containing characteristic hazardous waste, with a BTU per pound content greater than 5000, where the characteristic (*e.g.*, ignitability) has been extinguished, and both the used oil and the characteristic hazardous waste has been generated and mixed by the same generator, and which contain more than 50 percent of used oil by weight

or volume; (4) mixtures of used oil and fuels or other fuel products; and (5) used oil contaminated by or mixed with nonhazardous wastewater, both generated by the same generator and where the mixture results from use or unintentional contamination. In addition, the Board proposed amendments to the used oil tracking provisions under Part 739 to require additional information for specified used oil mixtures in lieu of requiring special waste manifests under Parts 808 and 809.

### **Public Comments During Second First Notice Period**

In addition to comments from NORA and the Agency addressed separately in the following subsections, the Board's second first-notice proposal elicited 33 public comments from various business entities and associations. Comments stressed that the Board had proposed to continue tracking used oil shipments but claimed that the Board did so in a manner that is "much more efficient and cost-effective." PC 83. A number of comments indicated that the Board's proposal would reduce costs and the volume of paperwork for entities involved with used oil recycling. *E.g.*, PC 85. Others suggested that the Board's proposal would reduce a competitive disadvantage borne by Illinois businesses in the field. *E.g.*, PC 109. Comments also claimed that adoption of the Board's proposal would make Illinois' regulations more consistent with those of other states. *E.g.*, PC 82. Comments also suggested that the Board's proposal would simplify the recycling of used oil and reduce the risk of improper disposal. PC 80. NORA itself argued that the Board's proposal "was careful not to undermine basic protections of human health and the environment." PC 79. Each of these 33 comments requested that the Board proceed to adopt its second first-notice proposal without amendment. *E.g.*, PC 98 ("We believe the [B]oard should adopt its proposed amendments without any changes.").

### **Discussion of Issues Raised During Second First Notice Comment Period**

The Agency's comments (PC 111) suggest several substantive changes to the Board's second first notice proposal. These changes include decreasing the waste content limit in used oil mixtures from 50 percent to 25 percent, requiring additional generator certification, and placing limits on the content of total organic carbon (TOC) and total suspended solids (TSS) in wastewater mixed with used oil. The Agency suggests a number of clarifications and typographical corrections. NORA's response opposes some of the substantive changes recommended by the Agency. In the following sub sections, the Board summarizes the participants' positions, discusses the issues presented, and reaches its findings.

### **Mixture of Used oil and Characteristic Hazardous Waste**

**Agency Comments.** The Agency states that the proposed exemption for mixtures of used oil and characteristic hazardous waste may allow wastes subject to RCRA regulations and manifesting under Part 723 to be exempt from manifests. *See generally* 35 Ill. Adm. Code 723. Specifically, the Agency notes that one of the conditions for the exemption of mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste is that the characteristic must be extinguished. PC 110 at 2; *see Proposed Amendment of the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20* (Aug. 20, 2009) (proposing amendments to 35 Ill. Adm. Code

808.121(b)(6)(B)(i), 809.301(b)(2)(i), 809.302(a)(2)(B)(i)). The Agency contends that the proposed condition is inconsistent with used oil provisions relied upon by the Board in proposing the exemption for mixtures of used oil and characteristic hazardous waste. PC 111 at 2.

The Agency notes that the existing Section 739.110(b)(2)(B) allows a mixture of characteristic hazardous waste and used oil to be managed as used oil only “if the resultant mixture does not exhibit any characteristic of a hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721.” PC 111 at 2-3, citing 35 Ill. Adm. Code 739.110(b)(2)(B). The Agency claims that, “if the hazardous characteristic was contributed to the mixture by the used oil and if the resulting mixture exhibited a hazardous characteristic, it must be managed as hazardous waste.” PC 111 at 3. Therefore, the Agency asserts that the proposed rules must set forth clearly that the hazardous characteristic must be extinguished in the resultant mixture of used oil and characteristic hazardous waste. *Id.* The Agency suggests that the Board revise the language of the affected sections to require that the characteristic of hazardous waste be extinguished in the resultant mixture. *Id.*

**NORA’s Response.** NORA states that it has no objections to the Agency’s proposed change requiring that the characteristic of hazardous waste be extinguished in the resultant mixture of used oil and characteristics hazardous waste. PC 112 at 1.

**Discussion and Finding.** As explained in the Board’s second first notice opinion, the proposed language at Sections 808.121(b)(6)(B)(i), 809.301(b)(2)(i)<sup>1</sup> and 809.302(a)(2)(B)(i) is intended to be consistent with the requirements of Section 739.110(b)(2)(B). See Proposed Amendment of the Board’s Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 808, 809, R06-20, slip op. at 33 (August 20, 2009). In this regard, the Board agrees with the Agency that Section 739.110(b)(2)(B) allows a mixture of used oil and characteristic hazardous waste to be managed as used oil only if the hazardous characteristics is extinguished in the resultant mixture. Thus, the Board finds that the revisions suggested by the Agency are appropriate and adopts the Agency’s proposed language for second notice.

### **Mixture of Used oil and Hazardous Waste (Characteristic & CESQG)**

**Agency Comments.** The Agency expresses concern regarding one of the conditions proposed in the exemption for mixtures of used oil and characteristic waste, and for mixtures of used oil and conditionally exempt small quantity generator (CESQG) hazardous wastes. Proposed Amendment of the Board’s Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 808, 809, R06-20 (August 20, 2009) (proposing amendments to 35 Ill. Adm. Code 808.121(b)(6)(A) and (B)(iii), 809.301(b)(1) and (2)(iii), and 809.302(a)(2)(A) and (B)(iii)). The condition at issue requires that mixtures of used oil and hazardous waste mixture contain more than fifty percent used oil by either volume or weight. PC 111 at 3. The Agency notes that the fifty percent limitation was proposed by NORA to address the Agency’s concern “that a mixture

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<sup>1</sup> The Board notes that subsection numbers in Section 809.301 have been renumbered to be consistent with the Illinois Administrative Code format. As such, Section 809.301(b)(2)(i) is renumbered as Section 809.301(c)(2)(A).

of used oil and other waste may not behave like used oil and that other waste should be recycled separately instead of being burned or treated at a wastewater treatment plant.” *Id.*

The Agency argues that, while the Board attempted to limit the exemption to mixtures that behave like used oil, it did not justify the proposed fifty percent threshold. PC 111 at 4. The Agency maintains that a 50 percent mixture “could still present a concern.” *Id.* Therefore, the Agency recommends that the Board require the percentage of used oil in the mixture to be at least 75 percent. The Agency contends that at 75 percent, the mixture would behave like used oil and that large quantities of other wastes would be recycled separately. *Id.*

**NORA’s Response.** NORA notes that, although it proposed a 50 percent limit on the waste content in mixtures of used oil and other wastes prior to the hearing on October 1, 2008, and discussed that proposal at hearing, the Agency seeks for the first time to amend the limit in its first notice comments. PC 112 at 1. Further, NORA argues that the Agency’s concern that the proposed rules would alter recycling practices in the industry and undermine hazardous waste regulations is misplaced. *Id.* at 1-2. NORA asserts that the intent of the proposed rules is only to exempt certain categories of used oil and material regulated as used oil from manifest requirements. The management of used oil and mixtures would be subject to all applicable hazardous waste regulations. *Id.* at 1. Further, NORA maintains that manifests and tracking documents do not govern or influence recycling practices. *Id.* at 2. NORA recommends that the Board reject the Agency’s proposed change. *Id.*

**Discussion and Finding.** NORA proposed the 50 percent limit on the waste content in used oil mixtures to address Agency’s concern that mixing a small quantity of used oil with other material such as CESQG waste or characteristic hazardous waste would allow the mixture to be managed as used oil. Tr. 3 at 30-32. As explained at first notice, the proposed manifest exemptions for mixtures of used oil and hazardous waste are based on the Board’s used oil regulations at 35 Ill. Adm. Code 739.110(b)(2) and (b)(3). However, the Board proposed additional restrictions for mixtures of used oil and hazardous waste in its second first-notice opinion and order.

The additional restrictions for mixtures of used oil and characteristic hazardous waste include: the characteristic hazardous waste must have a heating value of at least 5000 Btu per pound; both used oil and the characteristic hazardous waste must be generated and mixed by the same generator; and the mixture must contain more than 50 percent of used oil by weight or volume. The restrictions for mixtures of used oil and CESQG waste include: that both used oil and the waste must be generated and mixed by a CESQG; and the mixture must contain more than 50 percent used oil by volume or weight. The Board finds that the proposed restrictions concerning the mixture of used oil and other waste allow the management of such mixtures without significant changes from the manner in which they are being managed under the existing regulations, and provide adequate safeguards against any mismanagement of such mixtures.

Again, the Board emphasizes that the only change being proposed in the instant proposal is the replacement of manifest required under Parts 808 and 809 with a tracking document for used oil and certain used oil mixtures regulated under Part 739. The proposed rules require all the necessary information in the manifest to be included in the tracking document. Thus, used

oil and used oil mixtures would still be subject to all applicable requirements of Parts 808 and 809 other than manifesting. In light of this, the Board declines to change the proposed 50 percent limit on the waste content in mixtures of used oil and hazardous waste.

### **Generator Certification**

**Agency Comments.** In addition to the proposed generator certification under Part 739, the Agency recommends that the Board require a generator certification under Part 809 that used oil mixtures meet the criteria for manifest exemption. PC 111 at 4. Specifically, the Agency recommends that the Board use language similar to the requirements at Section 22.48 of the Act. *See* 415 ILCS 5/22.48 (2008). The Agency states that Section 22.48, which pertains to certification for non-special waste determination, requires generators to provide documentation to support their decision that the waste meets the manifest exemption. PC 111 at 4-5. The Agency maintains that most generators are familiar with the Section 22.48 certification. *Id.* at 5. The Agency proposes new language at Section 809.501(a)(2) that tracks the language of Section 22.48 of the Act.

**NORA's Response.** NORA contends that the Agency's proposal to require additional generator certification would result in far more onerous requirements on used oil generators than the generators of hazardous waste. PC 112 at 2. NORA asserts that, "under IEPA's proposal, generators who use a tracking document in order to avoid unnecessary paperwork relating to manifests would be punished by having to compile and maintain an enormous amount of additional paperwork." *Id.* NORA argues that the Agency's proposal undermines the Board's proposal to reduce the existing burden on generators and transporters. *Id.* Finally, NORA questions the Agency's intent to require generators to compile and maintain more documents when the Agency has not reviewed manifests under the current system. *Id.* NORA strongly recommends that the Board reject the Agency's proposal to require additional certification. *Id.*

**Discussion and Finding.** As explained in second first notice opinion, the Board's intent in proposing exemptions from manifest requirements for used oil and certain used oil mixtures is for the limited purpose of streamlining the informational requirements and reducing paperwork. The proposed tracking requirements under Part 739 ensures that all necessary information required on a manifest, including the generator certification would, still be available to the Agency and the entities involved in the handling and management of used oil and used oil mixtures. Further, the Board notes that the proposed generator certification under Part 739 mirrors the certification required in a manifest.

In contrast, the Section 22.48 certification language recommended by the Agency addresses information dealing with a non-special waste determination, *i.e.* information used to determine that a waste is not a special waste. *See* 415 ILCS 5/22.48(b) (2008). The Board notes that the proposed rules are only intended to provide an exemption from manifest requirements for used oil and certain used oil mixtures if certain conditions are met. The rules do not reclassify special waste as non-special waste. Under the Board's proposed amendments, used oil and used oil mixtures would still be subject to all applicable special waste requirements of Parts 808 and 809 other than manifests. In light of this, Board finds that the proposed generator

certification under Part 739 is adequate for the management of used oil and used oil mixtures. Therefore, the Board declines to adopt the certification language recommended by the Agency.

### **Definitions**

**Agency Comments.** The Agency states that the Board's first notice proposal contains terms that are not defined. PC 111 at 6. Specifically, the Agency notes that the terms "wastewater," "Btu," and "classification" need to be defined in the rules. *Id.* The Agency recommends that the Board include the definition of "wastewater" found at 35 Ill. Adm. Code 728.102 in Sections 808.110 and 809.103. *Id.* Section 728.102 defines "wastewater" as "waste that contains less than one percent by weight total organic carbon (TOC) and less than one percent by weight total suspended solids (TSS)". 35 Ill. Adm. Code 728.102. Next, the Agency suggests that the Board also add the definition of "Btu" to Sections 808.110 and 809.103. The Agency defines "Btu" or "British thermal unit" as "the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit". PC 111 at 6.

Finally, the Agency states that the term "classification" is used throughout the Board's proposal under Part 739 without definition. The Agency believes that the term "classification" is used frequently in the proposal to distinguish hazardous waste, used oil, a used oil mixture or other special waste. PC 111 at 6. Therefore, the Agency recommends that "classification" be defined as "a short description of the waste generating activity and designation as either hazardous waste with the appropriate hazardous waste code, non hazardous used oil, nonhazardous used oil mixture, or nonhazardous other special waste." *Id.*

**NORA's Response.** NORA states that it has no objections to inclusion of definitions recommended by the Agency for the terms "Btu" and "classification". PC 112 at 2. However, NORA takes issue with the Agency's definition of "wastewater". NORA contends that the definition of wastewater makes no practical sense. *Id.* NORA argues that the Agency has not provided any rationale for the proposed definition. *Id.* NORA notes that the petroleum content in most wastewater would exceed the one percent TOC content threshold. *Id.* Further, NORA maintains that all wastewater regardless of TOC content (less than or greater than one percent) would be treated in a centralized waste treatment units that are regulated under the Clean Water Act. *Id.* NORA asserts that the current practice of managing and treating wastewater will continue whether or not the Board adopts the proposed rules. *Id.* Thus, NORA contends that the Agency's proposed definition of wastewater has no environmental benefits and renders the Board's proposal with respect to tracking wastewater unworkable. *Id.*

**Discussion and Finding.** The Board agrees with the Agency that some of the terms used in the proposed rules need to be defined for purposes of clarity. The Board finds that the definitions proposed by the Agency for the terms "Btu" and "classification" clarify the rules, and are consistent with the proposed intent. As such, the Board will include the definition of: "Btu" in Sections 808.110 and 809.103; and "classification" in Section 739.100. However, the Board shares NORA's concern regarding the Agency's definition of "wastewater".

The Agency recommends that the Board use the definition of wastewater found at 35 Ill. Adm. Code 728.102, which is a part of the Board's RCRA land disposal restrictions (LDR)



regulations. As noted by NORA, the Agency does not provide any rationale for applying the Part 728 definition of wastewater, which is applicable to hazardous wastes and wastewaters, to management of used oil. The Board notes that Section 728.102 defines wastewater very narrowly in terms of TOC and TSS content for the specific purpose of applying the land disposal restrictions of Part 728. In promulgating the definition of “wastewater”, USEPA noted that it did not intend to include nonhazardous wastes or wastewaters in the LDR rule and that nonhazardous wastes and wastewaters with greater than 1.0 percent total organic carbon may exist. See 51 FR 40613 (Nov. 7, 1986) (providing USEPA’s initial framework for LDRs). The Board notes that, under the Board rules, mixtures of used oil and nonhazardous wastewater would not be considered as hazardous waste. Therefore, the Board finds that defining wastewater on the basis of TOC and TSS content for the purposes of managing mixtures of used oil and wastewater is not appropriate. As noted by NORA, the petroleum content in most wastewater at used oil facilities would exceed the one percent TOC threshold.

The Board believes that the proposed conditions for exempting mixtures of used oil and wastewater from manifesting allows the management of such mixtures without significant changes from the manner in which they are being managed under the existing regulations, while providing adequate safeguards against any mismanagement of such mixtures. Specifically, the proposed manifest exemption is limited to mixtures of used oil and nonhazardous wastewater, where both the used oil and the nonhazardous wastewater are generated by the same generator. Further, the exemption applies only if the mixture results from use or unintentional contamination. This exemption does not apply if wastewater is intentionally mixed with used oil, as initially proposed by NORA. See Proposed Amendment of the Board’s Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 808, 809, R06-20, slip op. at 36 (August 20, 2009). Thus, the Board finds that further restrictions on wastewater characteristics in terms of TOC and TSS are not warranted for the purposes of exempting mixtures of used oil and wastewater from manifest requirements. Therefore, the Board declines to add the definition of wastewater recommended by the Agency.

Instead, the Board will define “wastewater” consistent with the definition of that term found in the Board’s water quality standards regulations. See 35 Ill. Adm. Code 301.425. Section 301.425 defines wastewater as “sewage, industrial waste, or other waste, or any combination of these, whether treated or untreated, plus any admixed land runoff.” 35 Ill. Adm. Code 301.425.

**Subdocket (B).** In its first-notice comments, the Agency proposed adding a definition of “classification” to 35 Ill. Adm. Code 739.100 and definitions of both “Btu” and “wastewater” to 35 Ill. Adm. Code 808.110 and 35 Ill. Adm. Code 809.103. In the preceding subsection, the Board has concurred in adopting language defining those terms. Also, the Board agrees with the Agency that these are the proper sections in which to add these definitions. However, the Board has not submitted these three sections to first notice review and comment in its second first notice opinion and order in this proceeding. See Proposed Amendment of the Board’s Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20 (Aug. 20, 2009); see also 5 ILCS 100/5-40(b) (2008) (“Each agency shall give at least 45 days’ notice of its intended action to the general public. This first notice period shall commence on the first day the notice appears in the Illinois Register.”); 33 Ill. Reg. 12426-58 (Sept. 11, 2009). Accordingly,

the Board cannot move these three sections to second notice, as it does below with the remainder of the proposal. Under these circumstances, the Board believes that the best procedure is to open a subdocket B to provide first notice of the definitions in Sections 739.100, 808.110, and 809.103 and allow the remainder of the proposal to proceed to second notice. *See Steel and Foundry Industry Amendments to the Landfill Regulations (Parts 810 through 815 and 817)*, R90-26 (A,B), slip op. at 3 (Mar. 31, 1994). Interested participants may view the Board's opinion and order of this same date in subdocket B for a discussion of the proposed definitions.

### **Other Proposed Changes**

**Agency Comments.** In addition to changes discussed above, the Agency recommends several minor clarifications and typographical corrections. First, the Agency suggests a clarification in Sections 808.121(b)(6)(B), 809.301(b)(2), and 809.302(a)(2)(B) to reflect that the 5,000 Btu per pound limit applies to the waste as generated and prior to its mixture with the used oil. PC 111 at 7. Next, the Agency recommends that the certification requirements of Section 809.501(a)(2) be referenced in Sections 808.121(b)(6), 809.301(b), and 809.302(a)(2) as part of the generator's compliance with the manifest exemption. Also in these sections, the Agency suggests that the word "material" be replaced with the more accurate phrase "used oil mixtures". *Id.* Finally, the Agency suggests that the Board make the following typographical corrections: replace the word "then" with "than" in Sections 808.121(b)(6)(B), 809.301(b)(2), and 809.302(a)(2)(B); and remove the duplicate word "where" in Sections 809.301(b)(2)(ii) and 809.302(a)(2)(B)(ii).

**NORA's Response.** NORA states that it has no objections to the Agency's proposed clerical corrections, clarification regarding the 5,000 Btu per pound requirement, and replacement of the term "materials." PC 112 at 3. NORA's comment did not specifically address the Agency's proposed cross-reference to certification requirements. *Id.*, *see* PC 111 at 7.

**Discussion and Finding.** The Board appreciates the Agency's suggestions to clarify the proposed rules and correct typographical errors at Sections 808.121, 809.301, and 809.302. The Board notes that similar errors appear in Section 809.501(a)(2). The Board will incorporate all of the Agency's suggestions in the Board's second notice proposal, except for the inclusion of a reference to the proposed certification requirements in Sections 808.121(b)(6), 809.301(b), and 809.302(a)(2). Since the Board has declined to adopt the Agency's proposed generator certification provision at Section 809.501(a)(2), this reference is not needed.

### **Technical Feasibility and Economic Reasonableness**

In the course of these proceedings, the Agency introduced testimony that used oil facilities purchased 524,824 manifests from it during a two and one-half year period at a rate of 210,330 manifests annually. The Agency estimated that facilities purchased 168,650 manifests for the transportation of used oil in that two and one-half year period at a rate of 67,460 manifests annually. The Agency did not include a growth factor in those figures. It concluded that the number of shipments of used oil that would be exempt from manifesting is approximately 67,460 but could be more than 210,330 shipments per year. The exemptions

proposed today by the Board for second notice would eliminate the filing of manifests by used oil facilities and result in some savings to regulated entities. However, the Board notes that, while the proposed amendments eliminate the filing of manifests by used oil facilities, such facilities would still be required to provide the information required on the manifest but in a used oil tracking document.

NORA also offered testimony regarding the costs of manifesting shipments of used oil. Mr. Lenz testified that, for Future Environmental, purchasing manifests costs \$600 per day of operation and involves the cost of additional time on the part of its field and office personnel. Also, Mr. Ray testified that, even as one of the smaller used oil collectors in the State, manifesting annually costs Heritage Crystal Clean \$100,000. Nothing in the record suggests that the manifesting costs for other used oil entities differ significantly from these figures. At the third hearing on October 1, 2008, Mr. Appelt stated that Safety-Kleen's analysis shows that each manifest costs approximately \$18, including acquisition, distribution, separation, storage, and labor. He noted that over a recent 12-month period his company completed approximately 30,000 manifests for automotive customers and approximately 2,700 for industrial customers. Mr. Appelt concluded that, if the Board adopted NORA's proposal, those 30,000 automotive customers would no longer require manifest.

In its second first-notice opinion and order, the Board addressed this testimony in concluding that its proposal was both economically reasonable and technically feasible. Proposed Amendment of the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20, slip op. at 38 (Aug. 20, 2009). Since reaching those conclusions, the Board has not significantly amended its proposal. The Board thus finds that the second-notice proposal as discussed above is economically reasonable and technically feasible. Accordingly, the Board adopts the proposal for second notice.

### **CONCLUSION**

The Board adopts for second notice amendments exempting from the manifesting requirements of Parts 808 and 809 the following: (1) used oil, defined by and managed in accordance with Part 739; (2) mixtures of used oil and hazardous waste, both mixed and generated by a conditionally exempt small quantity generator (CESQG), provided that mixture contains more than fifty percent used oil by volume or weight; (3) used oil containing characteristic hazardous waste, with a BTU per pound content greater than 5000, where the characteristic (*e.g.*, ignitability) has been extinguished, and both the used oil and the characteristic hazardous waste has been generated and mixed by the same generator, and which contain more than 50 percent of used oil by weight or volume; (4) mixtures of used oil and fuels or other fuel products; and (5) used oil contaminated by or mixed with nonhazardous wastewater, both generated by the same generator and where the mixture results from use or unintentional contamination. In addition, the Board proposes amendments to the used oil tracking provisions under Part 739 to require additional information in used oil tracing under Parts 808 and 809.

The Board has amended its first notice proposal as noted in this opinion. The Board has also made a limited number of non-substantive changes, which are not specifically addressed above in the opinion. The Board finds that the record supports the Board's decision to proceed to second notice with the language contained in its order below.

In addition, after reviewing comments received from the Agency and NORA during the first-notice comment period, the Board today opens a subdocket B in this rulemaking. *See* Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732), R04-22, 04-23 (A,B) (consolidated) (Dec. 1, 2005); Livestock Waste Regulations, 35 Ill. Adm. Code 506, R97-15 (A,B) (Mar. 20, 1997); Steel and Foundry Industry Amendments to the Landfill Regulations (Parts 810 through 815 and 817), R90-26 (A,B), slip op. at 3 (Mar. 31, 1994). In subdocket B, the Board intends specifically to address only definitions in Sections 739.100, 808.110, and 809.103, none of which the Board included in its second first-notice opinion and order. *See* 35 Ill. Adm. Code 739.100, 808.110, 809.103; Proposed Amendment of the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809, R06-20 (Aug. 20, 2009); *see also* 5 ILCS 100/5-40(b) (2008); 33 Ill. Reg. 12426-58 (Sept. 11, 2009).

### ORDER

The Board directs the Clerk to file the following proposed amendments with the Joint Committee on Administrative Rules for second-notice review. Proposed additions are underlined, and proposed deletions appear stricken.

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 739  
 STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section 739.100	Definitions
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SUBPART B: APPLICABILITY

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

SUBPART C: STANDARDS FOR USED OIL GENERATORS

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

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

Section

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

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER  
AND TRANSFER FACILITIES

Section

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

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section

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

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

Section

- 739.160 Applicability
- 739.161 Restriction on Burning

739.162	Notification
739.163	Rebuttable Presumption for Used Oil
739.164	Used Oil Storage
739.165	Tracking
739.166	Notices
739.167	Management of Residues

#### SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

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

#### SUBPART I: DISPOSAL OF USED OIL

Section	
739.180	Applicability
739.181	Disposal
739.182	Use As a Dust Suppressant

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

**SOURCE:** Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008; amended in R06-20 at ~~343~~ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

##### **Section 739.146 Tracking**

- a) Acceptance. A used oil transporter must keep a record of each used oil shipment accepted for transport. Records for each shipment must include the following:
  - 1) The name and address of the generator, transporter, or processor that

provided the used oil for transport;

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

- b) Deliveries. A used oil transporter must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:

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

(Source: Amended at ~~343~~ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART F: STANDARDS FOR USED OIL PROCESSORS

##### **Section 739.156 Tracking**

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



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

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

(Source: Amended at ~~343~~ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

##### **Section 739.165 Tracking**

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

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

(Source: Amended at ~~343~~ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

**Section 739.174 Tracking**

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

certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

- b) On-specification used oil delivery. A generator, transporter, processor or re-refiner, or burner that first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Section 739.111 must keep a record of each shipment of used oil to the facility to which it delivers the used oil. Records for each shipment must include the following information:
- 1) The name and address of the facility receiving the shipment;
  - 2) The quantity of used oil fuel delivered;
  - 3) The date of shipment or delivery; and
  - 4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Section 739.172(a).
- c) Record retention. The records described in subsections (a) and (b) of this Section must be maintained for at least three years.

(Source: Amended at ~~343~~ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

PART 808  
 SPECIAL WASTE CLASSIFICATIONS

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808.100	Purpose, Scope and Applicability
808.101	Transitional Rule
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808.111	Incorporations by Reference
808.121	Generator Obligations
808.122	Manifests
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SUBPART B: CLASSES OF SPECIAL WASTE

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808.240	Special Waste Classes
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#### SUBPART D: REQUEST FOR WASTE CLASSIFICATION

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Section	
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808.541	Request for Modification
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Section	
808.600	Introduction
808.APPENDIX A	Assignment Of Special Waste To Classes
808.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, 27].

**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; amended in R06-20 at ~~343~~ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: GENERAL PROVISIONS

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

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

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

- b) No person shall deliver special waste to a transporter 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) The generator is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
- 6) The generator is not required to complete a manifest for the following materials used oil mixtures, provided that the generator complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
  - A) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that the mixture contains more than 50 percent used oil by either volume or weight;
  - B) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content greater than 5,000 prior to being mixed with the used oil, when:
    - i) the characteristic has been extinguished in the resultant mixture;
    - ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
    - iii) the mixture contains more than 50 percent used oil by either volume or weight;
  - C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
  - D) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.
- c) *No person shall cause, threaten or allow the treatment, storage or disposal of*
- 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 [415 ILCS 5/21(d) and (e)](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 [415 ILCS 5/21(d)](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 343 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

PART 809  
 NONHAZARDOUS SPECIAL WASTE HAULING  
 AND THE UNIFORM PROGRAM

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

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

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809.201	Nonhazardous Special Waste Hauling Permits – General
809.202	Applications for Nonhazardous Special Waste Hauling Permit – Contents
809.203	Applications for Nonhazardous Special Waste Hauling Permit – Signatures and Authorization
809.204	Applications for Nonhazardous Special Waste Hauling Permit – Filing and Final Action by the Agency

809.205	Nonhazardous Special Waste Hauling Permit Conditions
809.206	Nonhazardous Special Waste Hauling Permit Revision
809.207	Transfer of Nonhazardous Special Waste Hauling Permits
809.208	Nonhazardous Special Waste Hauling Permit Revocation
809.209	Permit No Defense
809.210	General Exemption from Nonhazardous Special Waste Hauling Permit Requirements
809.211	Exemptions for Nonhazardous Special Waste Transporters
809.212	Duration of Nonhazardous Special Waste Hauling Permits

#### SUBPART C: DELIVERY AND ACCEPTANCE

Section	
809.301	Requirements for Delivery of Nonhazardous Special Waste to Transporters
809.302	Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters

#### SUBPART D: PERMIT AVAILABILITY AND SYMBOLS

Section	
809.401	Permit Availability
809.402	Nonhazardous Special Waste Symbols

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

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

#### SUBPART F: DURATION OF PERMITS AND TANK NUMBERS

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

#### SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section	
809.701	General Provision

#### SUBPART H: EFFECTIVE DATES

Section	
809.801	Compliance Date
809.802	Exceptions (Repealed)

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

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

#### SUBPART J: UNIFORM PROGRAM

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

#### 809.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, 22.2, and 27] (see P.A. 90-219).

**SOURCE:** Adopted in R76-10, 33 PCB 131, at 3 Ill. Reg. 13, p. 155, effective March 31, 1979; emergency amendment in R76-10, 39 PCB 175, at 4 Ill. Reg. 34, p. 214, effective August 7, 1980, for a maximum of 150 days; emergency amendment in R80-19, 40 PCB 159, at 5 Ill. Reg. 270, effective January 1, 1981, for a maximum of 150 days; amended in R77-12(B), 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R80-19, 41 PCB 459, at 5 Ill. Reg. 6378, effective May 31, 1981; codified in R81-9, 53 PCB 269, at 7 Ill. Reg. 13640, effective September 30, 1983; recodified in R84-5, 58 PCB 267, from Subchapter h to Subchapter i at 8 Ill. Reg. 13198; amended in R89-13A at 14 Ill. Reg. 14076, effective August 15, 1990; amended in R91-18 at 16 Ill. Reg. 130, effective January 1, 1992; amended in R95-11 at 20 Ill. Reg. 5635, effective March 27, 1996; amended in R98-29 at 23 Ill. Reg. 6842, effective July 1, 1999; amended in R00-18 at 24 Ill. Reg. 14747, effective September 25, 2000; amended in R06-20 at ~~343~~ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### 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. The following are exceptions to this requirement:

- a) The generator or transporter is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
- b) The generator or transporter is not required to complete a manifest for the following materials used oil mixtures, provided that the generator complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
  - 1) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that the mixture contains more than 50 percent used oil by either volume or weight;
  - 2) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content greater ~~then~~ than 5,000 prior to being mixed with the used oil, when:
    - A) the characteristic has been extinguished in the resultant mixture;
    - B) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
    - C) the mixture contains more than 50 percent used oil by either volume or weight;
  - 3) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
  - 4) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.

(Source: Amended at 343 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

D) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.

- b) 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 343 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

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

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

- ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
    - iii) the mixture contains more than 50 percent used oil by either volume or weight;
  - C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
  - D) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.
- b) The 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 ~~343~~ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 17, 2009, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board