



OFFICE OF THE SECRETARY OF STATE

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September 2, 2009

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STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD
JOHN THERRIAULT ASSISTANT CLERK
100 W RANDOLPH ST, STE 11-500
CHICAGO, IL 60601

Dear JOHN THERRIAULT ASSISTANT CLERK

Your rules Listed below met our codification standards and have been published in Volume 33, Issue 37 of the Illinois Register, dated 9/11/2009.

PROPOSED RULES

Standards for the Management of Used Oil 35 Ill. Adm. Code 739 Point of Contact: Nancy Miller	12426
Special Waste Classifications 35 Ill. Adm. Code 808 Point of Contact: Nancy Miller	12439
Nonhazardous Special Waste Hauling and the Uniform Program 35 Ill. Adm. Code 809 Point of Contact: Nancy Miller	12446

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

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

739.146	Amend
739.156	Amend
739.165	Amend
739.174	Amend
- 4) Statutory 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].
- 5) A complete description of the subjects and issues involved: For a more detailed description of this rulemaking, see the Board's August 20, 2009, opinion and order Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809 (R06-20). NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association, initiated these amendments by filing an amended rulemaking proposal with the Board on September 22, 2008. The proposed amendments are intended to exempt from the manifesting requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809), used oil that is defined by, and managed in accordance, with Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements four specific mixture of used oil and other materials. The proposal also amends used oil tracking provisions in Part 739 to include information required by a manifest for those specified mixtures.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: NORA, which filed this rulemaking with the Board, did not used a published study or report in developing its original or amended proposal.
- 7) Will these proposed rules replace emergency rules currently in effect?: No.
- 8) Does this rulemaking contain an automatic repeal date? No.
- 9) Does these proposed rule contain incorporations by reference?: No.
- 10) Are there any other amendments pending on this Part? No.

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

11) Statement of statewide policy objectives:

The proposed amendments do not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].

12) Time, place and manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R06-20 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Address questions to Tim Fox at 312-814-6085.

Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312-814-3620, or download them from the Board's Web site at www.ipcb.state.il.us.

13) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected:

NORA, a trade association of companies providing used oil collection and recycling services, originally proposed these regulations. The substantive amendments affect any generators and transporters of used oil that is defined by and managed in accordance with the Board's used oil management regulations.

B) Reporting, bookkeeping or other procedures required for compliance:

As the proposed rulemaking would provide an exemption from existing requirements, it does not require procedures for compliance.

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C) Types of professional skills necessary for compliance:

None

14) Regulatory Agenda on which this rulemaking was summarized /State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas.

January 2008. On May 1, 2008, the Board adopted its first first notice opinion and order in this docket, as anticipated in that regulatory agenda. *See* 32 Ill. Reg. 8085, 8091 (May 30, 2008).

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

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 739

STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section
739.100 Definitions

SUBPART B: APPLICABILITY

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

SUBPART C: STANDARDS FOR USED OIL GENERATORS

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

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

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

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND
TRANSFER FACILITIES

Section
739.140 Applicability
739.141 Restrictions on Transporters that Are Not Also Processors

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- 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

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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 33 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

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- 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.
- 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 transporter must also keep a record including 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:

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- 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 33 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;

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- 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.
 - 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 transporter must also keep a record including 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

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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.
- 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 transporter must also keep a record including 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

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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 33 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 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.

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- 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 transporter must also keep a record including 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 33 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:

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- 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.
- 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 transporter must also keep a record including the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

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- 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 33 Ill. Reg.____, effective _____)

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- 1) Heading of the Part: Special Waste Classifications
- 2) Code citation: 35 Ill. Adm. Code 808
- 3) Section Numbers: Proposed Action:
808.121 Amend
- 4) Statutory 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].
- 5) A complete description of the subjects and issues involved: For a more detailed description of this rulemaking, see the Board's August 20, 2009, opinion and order Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809 (R06-20). NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association, initiated these amendments by filing an amended rulemaking proposal with the Board on September 22, 2008. The proposed amendments are intended to exempt from the manifesting requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809), used oil that is defined by, and managed in accordance, with Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements four specific mixture of used oil and other materials. The proposal also amends used oil tracking provisions in Part 739 to include information required by a manifest for those specified mixtures.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: NORA, which filed this rulemaking with the Board, did not used a published study or report in developing its original or amended proposal.
- 7) Will these proposed rules replace emergency rules currently in effect?: No.
- 8) Does this rulemaking contain an automatic repeal date? No.
- 9) Does these proposed rule contain incorporations by reference?: No.
- 10) Are there any other amendments pending on this Part? No.

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NOTICE OF PROPOSED AMENDMENT

11) Statement of statewide policy objectives:

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12) Time, place and manner in which interested persons may comment on this proposed rulemaking:

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

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13) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected:

NORA, a trade association of companies providing used oil collection and recycling services originally proposed these regulations. The substantive amendments affect any generators and transporters of used oil that is defined by and managed in accordance with the Board's used oil management regulations.

B) Reporting, bookkeeping or other procedures required for compliance:

As the proposed rulemaking would provide an exemption from existing requirements, it does not require procedures for compliance.

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C) Types of professional skills necessary for compliance:

None

14) Regulatory Agenda on which this rulemaking was summarized /State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas.

January 2008. On May 1, 2008, the Board adopted its first first notice opinion and order in this docket, as anticipated in that regulatory agenda. *See* 32 Ill. Reg. 8085, 8091 (May 30, 2008).

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 808

SPECIAL WASTE CLASSIFICATIONS

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: CLASSES OF SPECIAL WASTE

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

SUBPART C: CRITERIA AND DATA REQUIREMENTS

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

SUBPART D: REQUEST FOR WASTE CLASSIFICATION

Section

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

SUBPART E: REVIEW OF CLASSIFICATION REQUESTS

Section	
808.501	Order of Requesting Information
808.502	Completeness
808.503	Standard for Classification

SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS

Section	
808.520	Time for Agency Action
808.521	Conditions of Wastestream Classification
808.522	Final Agency Action

SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT

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

SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES

Section	
808.600	Introduction

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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 33 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.

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- 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, 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 conditionally exempt small quantity generator of hazardous waste, provided that such mixture contains more than fifty 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, where:
 - 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 fifty 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, where the used oil and the nonhazardous wastewater are generated by the same generator, and where the mixture results from use or unintentional contamination.
- c) *No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:*

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- 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 33 Ill. Reg. ____, effective _____)

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- 1) Heading of the Part: Nonhazardous Special Waste Hauling and the Uniform Program
- 2) Code citation: 35 Ill. Adm. Code 809
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
809.301	Amend
809.302	Amend
809.501	Amend
- 4) Statutory authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, and 22.2 and 27] (see P.A. 90-219).
- 5) A complete description of the subjects and issues involved: For a more detailed description of this rulemaking, see the Board's August 20, 2009, opinion and order Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809 (R06-20). NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association, initiated these amendments by filing an amended rulemaking proposal with the Board on September 22, 2008. The proposed amendments are intended to exempt from the manifesting requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809), used oil that is defined by, and managed in accordance, with Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements four specific mixture of used oil and other materials. The proposal also amends used oil tracking provisions in Part 739 to include information required by a manifest for those specified mixtures.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: NORA, which filed this rulemaking with the Board, did not use a published study or report in developing its original or amended proposal.
- 7) Will these proposed rules replace emergency rules currently in effect?: No.
- 8) Does this rulemaking contain an automatic repeal date?: No.
- 9) Do these proposed rules contain incorporations by reference?: No.
- 10) Are there any other amendments pending on this Part? No.

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11) Statement of statewide policy objectives:

The proposed amendments do not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].

12) Time, place and manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R06-20 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Address all questions to Tim Fox at 312-814-6085.

Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312-814-3620, or download them from the Board's Web site at www.ipcb.state.il.us.

13) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected:

NORA, a trade association of companies providing used oil collection and recycling services originally proposed these regulations. The substantive amendments affect any generators and transporters of used oil that is defined by and managed in accordance with the Board's used oil management regulations.

B) Reporting, bookkeeping or other procedures required for compliance:

As the proposed rulemaking would provide an exemption from existing requirements, it does not require procedures for compliance.

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C) Types of professional skills necessary for compliance:

None

14) Regulatory Agenda on which this rulemaking was summarized /State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas.

January 2008. On May 1, 2008, the Board adopted its first first notice opinion and order in this docket, as anticipated in that regulatory agenda. *See* 32 Ill. Reg. 8085, 8091 (May 30, 2008).

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

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NOTICE OF PROPOSED AMENDMENTS

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

SUBPART A: GENERAL PROVISIONS

Section	
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

Section	
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

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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)

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

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

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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, 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 conditionally exempt small quantity generator of hazardous waste, provided that such mixture contains more than fifty 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 than 5,000, where:
 - i) the characteristic has been extinguished;
 - ii) where both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
 - iii) where the mixture contains more than fifty percent used oil by either volume or weight.

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- 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, where the used oil and the nonhazardous wastewater are generated by the same generator, and where the mixture results from use or unintentional contamination.

(Source: Amended at 33 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, 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 conditionally exempt small quantity generator of hazardous waste, provided that such mixture contains more than fifty percent used oil by either volume or weight;

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- 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, where:
- i) the characteristic has been extinguished;
 - ii) where both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
 - iii) where the mixture contains more than fifty 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, where the used oil and the nonhazardous wastewater are generated by the same generator, and where the mixture results from use or unintentional contamination.

- a) 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 33 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.

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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, 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 conditionally exempt small quantity generator of hazardous waste, provided that such mixture contains more than fifty 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, where:
 - i) the characteristic has been extinguished;
 - ii) where both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator, and;
 - iii) where the mixture contains more than fifty 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, where the used oil and the nonhazardous wastewater are generated by the same generator, and where the mixture results from use or unintentional contamination.

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- 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

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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.

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- 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.

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- 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 33 Ill. Reg. _____, effective _____)