

ILLINOIS POLLUTION CONTROL BOARD  
December 17, 2009

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

Proposed Rule. First Notice.

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

In a separate action today, the Board adopted 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).

During the first-notice period, the Board received comments from the Illinois Environmental Protection Agency (Agency) (PC 111) and NORA (PC 112) addressing addition of three definitions to the Board's proposal. The Board today opens this subdocket B in this rulemaking in order to address these three definitions in Sections 739.100, 808.110, and 809.103, none of which had been 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* 33 Ill. Reg. 12426-58 (Sept. 11, 2009).

In this order in subdocket B, the Board directs the Clerk to provide first-notice publication in the *Illinois Register* of the specified definitions. The Board intends to receive comment for 45 days following publication. The Board anticipates adopting a second-notice opinion and order in this subdocket soon after the conclusion of that 45-day period.

**DISCUSSION**

In a separate order in Docket A today, the Board addressed comments by the Agency and NORA on the issue of whether the Board should include various definitions in its proposal. The Board addresses those comments in the subsections below.

**Agency Comments (PC 111)**

The Agency states that the Board's first notice proposal contains terms that are not defined. PC 111 at 6. Specifically, the Agency claims that the terms "wastewater", "Btu", and

“classification” need to be defined in the rules. *Id.* First, the Agency recommends that the Board include the definition of “wastewater” found at 35 Ill. Adm. Code 728.102 to Sections 808.110 and 809.103. *Id.*; *see* 35 Ill. Adm. Code 808.110, 809.103. 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 (definitions applicable to land disposal restrictions). The Agency also suggests that the Board 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 without definition throughout the Board’s proposal under Part 739. 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 does not object to including the 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 and that the Agency has not provided any rationale for it. *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 would be treated in a centralized waste treatment units 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**

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 will include the definition of “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 Fed. Reg. 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**

The Agency has proposed adding a definition of “classification” to 35 Ill. Adm. Code 739.100 and adding definitions of both “Btu” and “wastewater” to 35 Ill. Adm. Code 808.110 and 35 Ill. Adm. Code 809.103. In the preceding subsections, 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, in a separate order on this date in Docket A, the Board noted that it has not submitted these three sections to first notice review and comment 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* 33 Ill. Reg. 12426-58 (Sept. 11, 2009). Accordingly, the Board determined that it cannot in Docket A move these three sections to second notice, as it did with the remainder of the proposal. The Board concluded that the best procedure was to open this subdocket B to provide first notice of the definitions in Sections 739.100, 808.110, and 809.103. *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).

### **CONCLUSION**

In a separate order today in Docket A of this proceeding, the Board proposed amendments 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 proposed to amend the Part 739 tracking requirements to include information required by a manifest.

During the first-notice period for that proposal, the Board received comments from the Agency and NORA addressing for the first time the addition of three definitions to the Board's proposal. The Board today opened this subdocket B in this rulemaking in order to address these three definitions in Sections 739.100, 808.110, and 809.103, none of which had been included in the Board's second first-notice opinion and order adopted on August 20, 2009.

The Board below proposes to amend its regulations by adding three specific definitions addressed for the first time in participants' first-notice comments. The Board authorizes first-notice publication in the *Illinois Register*, which commences a 45-day comment period. In taking this action today, the Board notes that, while both the Agency and NORA have generally addressed the issue of these definitions, neither has specifically discussed their economic reasonableness or their technical feasibility. *See* PC 111, PC 112. The Board invites comment from the participants on these issues during the first-notice period.

### **ORDER**

The Board directs the Clerk to cause first-notice publication of the following proposed amendments to the Board's regulations in the *Illinois Register*. 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

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
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 A: DEFINITIONS

### Section 739.100 Definitions

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

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

BOARD NOTE: This definition is different from the definition for “aboveground tank” given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks that contain hazardous wastes. This definition of aboveground tank is limited to this Part only.

“Classification”, as used in this Part, means a short description of the waste generating activity and designation as either hazardous waste with the appropriate hazardous waste code, nonhazardous used oil, nonhazardous used oil mixture, or nonhazardous other special waste.

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

“Do-it-yourselfer used oil collection center” means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

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

A continuous on-site installation program had begun, or

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

BOARD NOTE: This definition is similar to the definition for “Existing tank system” in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for “existing tank” in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks

systems that contain hazardous wastes. This definition of existing tank is limited to this Part only.

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

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

“Household ‘do-it-yourselfer’ used oil generator” means an individual who generates household “do-it-yourselfer” used oil.

“New tank” means a tank that will be used to store or process used oil and for which installation had commenced after October 4, 1996.

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

“Petroleum refining facility” means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

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

“Re-refining distillation bottoms” means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

“Tank” means any stationary device, designed to contain an accumulation of used oil that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

“Used oil” means any oil that has been refined from crude oil or any synthetic oil that has been used and as a result of such use is contaminated by physical or chemical impurities.



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

“Used oil burner” means a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a).

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

“Used oil fuel marketer” means any person that conducts either of the following activities:

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

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

“Used oil generator” means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

“Used oil processor” means a facility that processes used oil.

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

“Used oil transporter” means any person that transports used oil, any person that collects used oil from more than one generator and that transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more

amenable for production of) used oil derived products or used oil fuel.

(Source: Amended at 34 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

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: CLASSES OF SPECIAL WASTE

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

SUBPART C: CRITERIA AND DATA REQUIREMENTS

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

SUBPART D: REQUEST FOR WASTE CLASSIFICATION

Section	
808.400	Introduction
808.401	Application Forms

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

#### SUBPART E: REVIEW OF CLASSIFICATION REQUESTS

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

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 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 808.110 Definitions**

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

"Agency" means the Illinois Environmental Protection Agency.

"Btu" or "British thermal unit" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Board" means the Illinois Pollution Control Board.

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

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

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

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

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

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

"Mutagen" means a chemical, or complex mixture of closely related

chemicals or ionizing radiation which has been determined, in accordance with USEPA Guidelines for Mutagenic Risk Assessment, incorporated by reference at Section 808.111, to have sufficient evidence supporting a causal association between exposure to the chemical and point mutations (i.e., submicroscopic changes in the base sequence of DNA) or structural or numerical chromosome aberrations. Structural aberrations include deficiencies, duplications, insertions, inversions, and translocations, whereas numerical aberrations are gains or losses of whole chromosomes (e.g., trisomy, monosomy) or sets of chromosomes (haploidy, polyploidy).

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

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

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

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

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

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

“Wastewater” means sewage, industrial waste, or other waste, or any combination of these, whether treated or untreated, plus any admixed land runoff.

(Source: Amended at 34 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

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

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 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: GENERAL PROVISIONS

##### **Section 809.103                      Definitions**

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Board" means the Illinois Pollution Control Board.

"Btu" or "British thermal unit" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit



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

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

*"Hazardous waste" means a waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential threat to human health or to the environment when improperly treated, stored, transported or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to agency guidelines consistent with the requirements of the Act and Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. [415 ILCS 5/3.15]*

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

*"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Industrial process waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. [415 ILCS 5/3.17]*

*"Manifest" means the form provided or prescribed by the Agency and used for identifying name, quantity, and the origin, routing, and destination of special waste during its transportation from the point of generation to the point of*

disposal, treatment, or storage, as required by this Part, 35 Ill. Adm. Code: Subtitle G, or by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or regulations thereunder.

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

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

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

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

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

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

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

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

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

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

*"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, scrubber sludges and chemical spill cleanings. [415 ILCS 5/3.27]*

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

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

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

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

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

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

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

"Special waste" means *any of the following:*

*Potentially infectious medical waste;*

*Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 Ill. Adm. Code 722.111,*

*including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with 35 Ill. Adm. Code 726 and proven to be nonhazardous;*

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

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

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

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

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

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

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

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

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

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

"Spill" means any accidental discharge of special waste.

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

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

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

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

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

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

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

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

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

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

*"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94 of the Act, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (42 USC 2011 et seq.) or any solid or dissolved material from any facility subject to The Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. [415 ILCS 5/3.53]*

"Wastewater" means sewage, industrial waste, or other waste, or any combination of these, whether treated or untreated, plus any admixed land runoff.

(Source: Amended at 34 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