

ILLINOIS POLLUTION CONTROL BOARD

November 17, 2011

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO) R12-13
NONHAZARDOUS SPECIAL WASTE) (Rulemaking -Land)
HAULING AND THE UNIFORM)
PROGRAM: 35 ILL. ADM. CODE 809)

ORDER OF THE BOARD (by T.A. Holbrook):

On October 28, 2011, the Illinois Environmental Protection Agency (Agency or Illinois EPA) filed a proposal to amend Part 809 of the Board's solid waste and special waste hauling regulations. *See* 35 Ill. Adm. Code 809. Accompanying the proposal was a Statement of Reasons (SR).

The Agency states that Public Act 90-219 required the Agency "to implement the Uniform Hazardous Materials Transportation Registration and Permit Program" (Uniform Program). SR at 1-2, citing Public Act 90-219, eff. July 25, 1997. On May 8, 1998, the Agency proposed to the Board regulations implementing the Hazardous Materials Transportation Uniform Safety Act of 1990. SR at 1, citing P.L. 101-615 (1990); *see Nonhazardous Special Waste Hauling and the Uniform Program: 35 Ill. Adm. Code 809, R 98-29* (May 8, 1998). The Agency states that, when it proposed these regulations, the Hazardous Materials Transportation Authorization Act of 1994 "required states choosing to register or permit persons transporting or causing to be transported hazardous materials by motor vehicle to use uniform, reciprocal forms and procedures." SR at 2, citing 49 U.S.C. §§ 5101, 5119(a) (1994). The Board adopted regulations establishing the Uniform Program in Illinois on May 20, 1999. *Nonhazardous Special Waste Hauling and the Uniform Program: 35 Ill. Adm. Code 809, R 98-29* (May 20, 1999).

The Agency states that, "[u]nder the Uniform Program, a hazardous waste transporter with its principal place of business in Illinois was required to register with and obtain a permit from the Illinois EPA." SR at 3. The Agency adds that "[a] transporter that designated another state participating in the program as its base state had to register with and obtain a permit from that state before transporting hazardous waste in or through Illinois." *Id.* The Agency indicates that the various base states collect registration and permit fees and apportion them to the other states participating in the Uniform Program. *Id.*

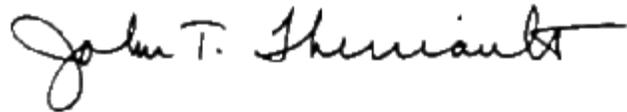
The Agency claims that six states now participate in the Uniform Program and that a seventh withdrew in 2010. SR at 3 (noting that additional states requires permits or registrations from hazardous waste transporters). The Agency initially projected that the Uniform Program would annually generate more the \$330,000. *Id.* The Agency argues, however, that "actual revenues from the Uniform Program fell far below those predictions because apportionment drastically reduced the fees collected for Illinois while significantly increasing administrative costs. . . ." *Id.* The Agency reports that it collected a net amount of \$44,990 through the

Uniform Program in fiscal year 2010. *Id.* The Agency argues that, “[b]ecause the funds generated from the Uniform Program did not warrant the increased resources needed to permit haulers under the Uniform Program,” the General Assembly withdrew Illinois from it. *Id.*, citing Public Act 97-220, eff. July 28, 2011. The Agency states that, “[b]ecause P.A. 97-220 effectively abolished the Uniform Program, proposed amendments to Part 809 are necessary to remove all reference to the Uniform Program from the Waste Hauling regulations.” SR at 4.

The Board accepts this proposal for hearing and directs the assigned hearing officer to schedule and proceed to hearing under the rulemaking provisions of the Act and the Board’s procedural rules. 415 ILCS 5/27, 28 (2010); 35 Ill. Adm. Code 102. After conducting hearings on this proposal, the Board will determine whether to proceed to first notice.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 17, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board