

ILLINOIS POLLUTION CONTROL BOARD
April 1, 2004

IN THE MATTER OF:)
) R04-16
RCRA SUBTITLE C UPDATE, USEPA) (Identical-in-Substance
AMENDMENTS (July 1, 2003 through) Rulemaking - Land
December 31, 2003))

Proposed Rule. Proposal for Public Comment.

ORDER OF THE BOARD (by G.T. Girard):

SUMMARY OF TODAY'S ACTION

This identical-in-substance rulemaking would update the Illinois hazardous waste regulations to incorporate revisions to the federal regulations. The federal amendments that prompted this action were made by the United States Environmental Protection Agency (USEPA) during the period of July 1, 2003 through December 31, 2003. This proceeding proposes amendments to 35 Ill. Adm. Code 721 and 739. This proposal for public comment would also make a series of non-substantive corrections and stylistic revisions to segments of the text of 35 Ill. Adm. Code 739 that are not otherwise affected by the covered federal amendments.

Sections 7.2 and 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 22.4(a) (2002)) require the Board to adopt regulations that are "identical in substance" to hazardous waste regulations adopted by the USEPA. These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2000)).

Sections 7.2 and 22.4(a) provide for quick adoption of regulations that are identical in substance to federal regulations that USEPA adopts to implement Sections 3001 through 3005 of RCRA (42 U.S.C. §§ 6921-6925 (2000)). Section 22.4(a) also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 and 5-40 (2002)) do not apply to the Board's adoption of identical-in-substance regulations. The federal RCRA Subtitle C regulations are found at 40 C.F.R. 260 through 266, 268, 270, 271, 273, and 279.

This order is supported by an opinion that the Board also adopts today. The Board will cause the proposed amendments to be published in the *Illinois Register* and will hold the docket open to receive public comments for 45 days after the date of publication.

IT IS SO ORDERED.

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

PART 721
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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 R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-

16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators

- a) A generator is a conditionally exempt small quantity generator in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month.
- b) Except for those wastes identified in subsections (e), (f), (g), and (j) of this Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, and the notification requirements of section 3010 of Resource Conservation and Recovery Act, provided the generator complies with the requirements of subsections (f), (g), and (j) of this Section.
- c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:
 - 1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;
 - 2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;
 - 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);
 - 4) Hazardous waste that is used oil managed under the requirements of Section 721.106(a)(4) and 35 Ill. Adm. Code 739;

- 5) Hazardous waste that is spent lead-acid batteries managed under the requirements of Subpart G of 35 Ill. Adm. Code 726; and
 - 6) Hazardous waste that is universal waste managed under Section 721.109 and 35 Ill. Adm. Code 733.
- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
- 1) Hazardous waste when it is removed from on-site storage;
 - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
 - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth below in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act:
- 1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e); or
 - 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of greater than 1000 kg of non-acute hazardous waste in a calendar month.

- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:
- 1) 35 Ill. Adm. Code 722.111.
 - 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities

greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.

- 3) A conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
- A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
 - D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or 40 CFR 258;
 - E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to the requirements of 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills one of the following conditions:

- i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or
 - ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or
 - G) For universal waste managed under 35 Ill. Adm. Code 733 or 40 CFR 273, the facility is a universal waste handler or destination facility subject to the requirements of 35 Ill. Adm. Code 733 or 40 CFR 273.
- g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:
- 1) 35 Ill. Adm. Code 722.111;
 - 2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If it accumulates at any time more than a total of 1000 kilograms of the generator's hazardous waste, all of those accumulated wastes are subject to regulation under the special provisions of 35 Ill. Adm. Code 722 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month, as well as the requirements of 35 Ill. Adm. Code 702, 703, 723 through 726, and 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed 1000 kilograms;
 - 3) A conditionally exempt small quantity generator may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA under 40 CFR 271 (2002);
 - D) The facility is permitted, licensed, or registered by a state to

manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or 40 CFR 258;

- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to the requirements of 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills the following conditions:
- i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
 - ii) It treats its waste prior to beneficial use or re-use or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or 40 CFR 273, the facility is a universal waste handler or destination facility subject to the requirements of 35 Ill. Adm. Code 733 or 40 CFR 273.

- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.
- i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.
- j) If a conditionally exempt small quantity generator's hazardous wastes are mixed with used oil, the mixture is subject to 35 Ill. Adm. Code 739 ~~if it is destined to be burned for energy recovery~~. Any material produced from such a mixture by

processing, blending, or other treatment is also so regulated ~~if it is destined to be burned for energy recovery.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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

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739.100 Definitions

SUBPART B: APPLICABILITY

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739.110 Applicability
739.111 ~~Used-oil specifications~~ Oil Specifications
739.112 Prohibitions

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section
739.120 Applicability
739.121 ~~Hazardous-waste mixing~~ Waste Mixing
739.122 ~~Used-oil storage~~ Oil Storage
739.123 ~~On-site burning~~ On-Site Burning in-space heaters Space Heaters
739.124 ~~Off-site shipments~~ Off-Site Shipments

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

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739.131 ~~Used-oil collection centers~~ Oil Collection Centers
739.132 ~~Used-oil aggregate points owned~~ Oil Aggregate Points Owned by the generator Generator

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739.145	Used-oil-storage <u>Oil Storage</u> at-transfer-facilities <u>Transfer Facilities</u>
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739.157	Operating-record-and-reporting <u>Record and Reporting</u>
739.158	Off-site-shipments <u>Off-Site Shipments of-used-oil</u> <u>Used Oil</u>
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SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

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739.172	On-specification-used-oil-fuel <u>On-Specification Used Oil Fuel</u>
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SUBPART I: STANDARDS FOR USE AS A DUST SUPPRESSANT DISPOSAL OF USED OIL

Section	
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AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4 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. _____, 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~~ 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. The ~~above~~ definition of this Section is limited to this Part only.

“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 ~~has had~~ has had commenced on or prior to ~~the effective date of the authorized used oil program for the State in which the tank is located~~ October 4, 1996. Installation will be considered to have commenced if the owner or operator ~~has had~~ has 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 ~~has had~~ has had begun, or

The owner or operator ~~has had~~ has 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. The ~~above~~ definition of this Section 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 ~~has had~~ commenced ~~after the effective date of the authorized used oil program for the State in which the tank is located~~ 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 ~~which that~~ contain hazardous wastes. The ~~above~~ definition of this Section 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 ~~which that~~ is constructed primarily of non-earthen materials, (e.g., wood, concrete, steel, plastic) which ~~provides 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 28 Ill. Reg. _____, effective _____)

SUBPART B: APPLICABILITY

Section 739.110 Applicability

This Section identifies those materials ~~which that~~ are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under this Part, and indicates whether these materials may be subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, 720 through 726, and 728.

- a) Used oil. ~~USEPA presumes that used~~ Used oil is presumed to be recycled, unless a used oil handler disposes of used oil, or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil, and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. ~~Subpart C.~~
- b) Mixtures of used oil and hazardous waste.
 - 1) Listed hazardous waste.
 - A) A mixture of used oil and hazardous waste that is listed in Subpart D of 35 Ill. Adm. Code 721. ~~Subpart D~~ is subject to regulation as hazardous waste under 35 Ill. Adm. Code 703, 720 through 726, and 728, rather than as used oil under this Part.
 - B) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. ~~Subpart D~~. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, ~~Edition III~~ incorporated by reference in 35 Ill. Adm. Code 720.111, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721. ~~Appendix H~~). ~~USEPA Publication SW 846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, (202) 783-3238~~

(document number 955-001-00000-1).

- i) ~~The~~This rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. ~~The~~This presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.
 - ii) ~~The~~This rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. ~~The~~This rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- 2) Characteristic hazardous waste. A mixture of used oil and hazardous waste that exhibits a hazardous waste characteristic identified in Subpart C of 35 Ill. Adm. Code 721~~Subpart C~~ and a mixture of used oil and hazardous waste that is listed in Subpart D of this Part solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~Subpart C~~ is subject to the following:
 - A) Except as provided in subsection (b)(2)(C) of this Section, regulation as hazardous waste under 35 Ill. Adm. Code 703, 720 through 726, and 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~Subpart C~~; or
 - B) Except as provided in subsection (b)(2)(C) of this Section, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721~~Subpart C~~.
 - C) Regulation as used oil under this Part, if the mixture is of used oil and a waste ~~which~~that is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.
- 3) Conditionally exempt small quantity generator hazardous waste. A mixture of used oil and conditionally exempt small quantity generator hazardous waste regulated under 35 Ill. Adm. Code 721.105 is subject to regulation as used oil under this Part.

- c) Materials containing or otherwise contaminated with used oil.
- 1) Except as provided in subsection (c)(2) of this Section, the following is true of a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible ~~such~~so that no visible signs of free-flowing oil remain in or on the material:
 - A) ~~Is~~The material is not used oil, and thus, it is not subject to this Part, and
 - B) If applicable, the material is subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 705, 720 through 726, and 728.
 - 2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.
 - 3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.
- d) Mixtures of used oil with products.
- 1) Except as provided in subsection (d)(2) of this Section, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.
 - 2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C of this Part.
- e) Materials derived from used oil.
- 1) ~~Materials~~The following is true of materials that are reclaimed from used oil, ~~that~~which are used beneficially, and ~~which~~are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants)~~-are~~:
 - A) ~~Not~~The materials are not used oil and thus are not subject to this Part, and
 - B) ~~Not~~The materials are not solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 720

through 726, and 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).

- 2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.
 - 3) Except as provided in subsection (e)(4) of this Section, the following is true of materials derived from used oil that are disposed of or used in a manner constituting disposal ~~are~~:
 - A) ~~Not~~ The materials are not used oil and thus are not subject to this Part, and
 - B) ~~Are~~ The materials are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 703, 720 through 726, and 728 if the materials are listed or identified as hazardous waste.
 - 4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.
- f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the federal Clean Water Act (including wastewaters at facilities ~~which that~~ have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, “de minimis” quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.
- g) Used oil introduced into crude oil pipelines or a petroleum refining facility.
- 1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.
 - 2) Mixtures of used oil and crude oil or natural gas liquids containing less than ~~1%~~ one percent used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Part.

- 3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than ~~1%~~ one percent of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of this Part.
- 4) Except as provided in subsection (g)(5) of this Section, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Part.
- 5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).
- 6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.
- h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.
- i) Used oil containing PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3, incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. ~~Used-PCB-containing used oil~~ subject to the requirements of this Part may also be subject to the prohibitions and requirements of 40 CFR Part 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is ~~solely~~ subject to regulation under federal 40 CFR 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.111 ~~Used oil specifications~~ Oil Specifications

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this Part unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in ~~Table 1~~ the following table. Once used oil that is to be burned for energy recovery has been shown not to exceed any specification and the person making that showing complies with Sections 739.172, 739.173, and 739.174(b), the used oil is no longer subject to this Part.

~~Table 1—Used Oil Not Exceeding Any Specification Level Is Not Subject to this Part~~ Levels When Burned for Energy Recovery¹

Constituent/property	Allowable level
Arsenic	5 ppm maximum.
Cadmium	2 ppm maximum.
Chromium	10 ppm maximum.
Lead	100 ppm maximum.
Flash point	100 °F minimum.
———Total halogens	4,000 ppm maximum ² .

FOOTNOTE: ¹ The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see Section 739.110(b)).

FOOTNOTE: ² Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under Section 739.110(b)(1). Such used oil is subject to Subpart H of 35 Ill. Adm. Code 726, ~~Subpart H~~, rather than this Part, when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.112 Prohibitions

- a) ~~Surface impoundment prohibition. Used oil shall~~ must not be managed in surface impoundments or waste piles, unless the units are subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Use as a dust suppressant. The use of used oil as a dust suppressant is prohibited; ~~except when such activity takes place in one of the states listed in Section 739.182(e).~~

- c) Burning in particular units. Off-specification used oil fuel may be burned for energy recovery in only the following devices:
- 1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;
 - 2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:
 - A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;
 - B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
 - C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123.
 - 3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code ~~724.Subpart O~~ or ~~725.Subpart O~~.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section 739.120 Applicability

- a) General. This ~~subpart~~ Subpart C applies to all generators of used oil, except the following:
- 1) Household “do-it-yourselfer” used oil generators. Household “do-it-yourselfer” used oil generators are not subject to regulation under this Part.
 - 2) Vessels. Vessels at sea or at port are not subject to this Subpart C. For purposes of this Subpart C, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the ~~person(s)~~ persons removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this Subpart C once the used oil is transported ashore. The co-generators may decide among ~~them~~ themselves which party will fulfill the requirements of this Subpart C.
 - 3) Diesel fuel. Mixtures of used oil and diesel fuel mixed by the generator of

the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this Subpart C.

- 4) Farmers. Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this Part.
- b) Other applicable provisions. A used oil generator that conducts any of the following activities is subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through ~~(b)(5)~~ below:
- 1) A generator that transports used oil, except under the self-transport provisions of Section 739.124-(a) and (b), ~~shall~~ must also comply with ~~739~~.Subpart E of this Part.
 - 2) A generator that processes or re-refines used oil.
 - A) Except as provided in subsection (b)(2)(B) ~~below of this Section~~, a generator that processes or re-refines used oil ~~shall~~ must also comply with ~~739~~.Subpart F of this Part.
 - B) A generator that performs the following activities is not a used oil processor, provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel:
 - i) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;
 - ii) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to Section 402 or 307(b) for the federal Clean Water Act (33 U.S.C. 1317 or 1342), 40 CFR 403 through 499, or 35 Ill. Adm. Code 310 or 309, governing the discharge of wastewaters;
 - iii) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;
 - iv) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to Section 739.110(c); or
 - v) Filtering, separating, or otherwise reconditioning used oil

before burning it in a space heater pursuant to Section 739.123.

- 3) A generator that burns off-specification used oil for energy recovery, except under the on-site space heater provisions of Section 739.123, ~~shall~~ must also comply with ~~739.Subpart G of this Part.~~
- 4) A generator that directs shipments 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 ~~shall~~ must also comply with ~~739.Subpart H of this Part.~~
- 5) A generator that disposes of used oil, including the use of used oil as a dust suppressant, ~~shall~~ must also comply with ~~739.Subpart I of this Part.~~

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.121 ~~Hazardous waste mixing~~ Waste Mixing

- a) Mixtures of used oil and hazardous waste must be managed in accordance with Section 739.110(b).
- b) The rebuttable presumption for used oil of Section 739.110(b)(1)(B) applies to used oil managed by generators. Under the rebuttable presumption for used oil of Section 739.110(b)(1)(B), used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus must be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain metalworking oils and fluids and certain used oils removed from refrigeration units.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.122 ~~Used oil storage~~ Oil Storage

~~Used oil generators are~~ A used oil generator is subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. ~~Used oil generators are~~ A used oil generator is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

- a) Storage units. ~~Used oil generators shall~~ A used oil generator may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. ~~Containers~~ The following must be true of containers and aboveground tanks used to store used oil at a generator ~~facilities must be~~ facility:

- 1) ~~In~~ The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) ~~Not~~ The containers may not be leaking (no visible leaks).
- c) Labels.
- 1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”
 - 2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words “Used Oil.”
- d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, a generator ~~shall~~ must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.22(d) applies to releases that “occurred after the effective date of the authorized used oil program for the State in which the release is located.” The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted “the effective date of the authorized used oil program” to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like “the effective date of the used oil program in the authorized State in which the release is located,” the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials; and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.123 ~~On-site burning~~ On-Site Burning in-space heaters Space Heaters

~~Generators~~ A generator may burn used oil in used oil-fired space heaters provided that the following

conditions are fulfilled:

- a) The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;
- b) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and
- c) The combustion gases from the heater are vented to the ambient air.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.124 ~~Off-site shipments~~ Off-Site Shipments

Except as provided in subsections (a) through (c) of this Section, ~~generators shall~~ a generator must ensure that their used oil is transported only by transporters that have obtained a U.S. EPA-USEPA identification number and an Illinois special waste identification ~~numbers~~ number pursuant to 35 Ill. Adm. Code 809.

BOARD NOTE: A generator that qualifies for an exemption under Section 739.124(a) through (c) may still be subject to the State's special waste hauling permit requirements under 35 Ill. Adm. Code 809.

- a) Self-transportation of small amounts to registered collection centers. ~~Generators~~ A generator may transport, without a U.S. EPA-USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that the following conditions are fulfilled:
 - 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
 - 2) The generator transports no more than 55 gallons of used oil at any time; and
 - 3) The generator transports the used oil to a used oil collection center that has registered by written notification with the Agency to manage used oil. This notification ~~shall~~ must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification ~~shall~~ must be submitted on forms provided by the Agency.
- b) Self-transportation of small amounts to aggregation points owned by the generator. ~~Generators~~ A generator may transport, without a U.S. EPA-USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site to an aggregation point provided that the following conditions are fulfilled:

- 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
 - 2) The generator transports no more than 55 gallons of used oil at any time; and
 - 3) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.
- c) Tolling arrangements. ~~Used oil generators~~ A used oil generator may arrange for used oil to be transported by a transporter without a ~~U.S. EPA-USEPA~~ identification number and an Illinois special waste identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor to the generator for use as a lubricant, cutting oil, or coolant. The contract (known as a “tolling arrangement”) must indicate the following information:
- 1) The type of used oil and the frequency of shipments;
 - 2) That the vehicle used to transport the used oil to the processing facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor; and
 - 3) That reclaimed oil will be returned to the generator.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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

Section 739.130 ~~Do-it-yourselfer used oil collection centers~~ Do-It-Yourselfer Used Oil Collection Centers

- a) Applicability. This Section applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.
- b) DIY used oil collection center requirements. Owners or operators of all DIY used oil collection centers must comply with the generator standards in Subpart C of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.131 ~~Used oil collection centers~~ Oil Collection Centers

- a) Applicability. This Section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts, aggregates or

stores used oil collected from used oil generators regulated under Subpart C of this Part who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of Section 739.124(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) Used oil collection center requirements. Owners or operators of all used oil collection centers must do the following:
- 1) Comply with the generator standards in Subpart C of this Part; and
 - 2) Be registered by the Agency to manage used oil. The used oil collection center ~~shall~~ must register by written notification with the Agency to manage used oil. This notification ~~shall~~ must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification ~~shall~~ must be submitted on forms provided by the Agency.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.132 ~~Used oil aggregate points owned~~ Oil Aggregate Points Owned by the ~~generator~~ Generator

- a) Applicability. This Section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is 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 under the provisions of Section 739.124(b). ~~Used~~ A used oil aggregation ~~points~~ point may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) Used oil aggregation point requirements. Owners or operators of all used oil aggregation points must comply with the generator standards in Subpart C of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND
TRANSFER FACILITIES

Section 739.140 Applicability

- a) General. Except as provided in subsections (a)(1) through (a)(4) of this Section, this Subpart E applies to all used oil transporters. ~~Used oil transporters are persons~~ A used oil transporter is a person that transport-transport used oil, ~~persons-a person that collect-collects~~ used oil from more than one generator and transport the collected oil, and ~~owners and operators-an owner or operator of a used oil transfer facilities facility.~~
- 1) This Subpart E does not apply to on-site transportation.
 - 2) This Subpart E does not apply to ~~generators-a generator that transport~~ transports shipments of used oil ~~totalling-totaling~~ 55 gallons or less from the generator to a used oil collection center as specified in Section 739.124(a).
 - 3) This Subpart E does not apply to ~~generators-a generator that transport~~ transports shipments of used oil ~~totalling-totaling~~ 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in Section 739.124(b).
 - 4) This Subpart E does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor, or burner subject to the requirements of this Part. Except as provided in subsections (a)(1) through (a)(3) of this Section, this Subpart E does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.
- BOARD NOTE: A generator that qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.
- b) Imports and exports. ~~Transporters-A transporter that import-imports~~ used oil from abroad or export used oil outside of the United States are subject to the requirements of this Subpart E from the time the used oil enters and until the time it exits the United States.
- c) Trucks used to transport hazardous waste. Unless trucks previously used to transport hazardous waste are emptied as described in 35 Ill. Adm. Code 721.107 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of Section 739.110(b), the hazardous waste and used oil mixture is

determined not to be hazardous waste.

- d) Other applicable provisions. ~~Used oil transporters~~ A used oil transporter that conduct ~~conducts~~ the following activities are also subject to other applicable provisions of this Part as indicated in subsections (d)(1) through (d)(5) of this Section:
- 1) ~~Transporters~~ A transporter that generate ~~generates~~ used oil ~~shall~~ must also comply with Subpart C of this Part;
 - 2) ~~Transporters~~ A transporter that process ~~processes~~ or re-refine used oil, except as provided in Section 739.141, ~~shall~~ must also comply with Subpart F of this Part;
 - 3) ~~Transporters~~ A transporter that burn ~~burns~~ off-specification used oil for energy recovery ~~shall~~ must also comply with Subpart G of this Part;
 - 4) ~~Transporters~~ A transporter that direct ~~directs~~ shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 ~~shall~~ must also comply with Subpart H of this Part; and
 - 5) ~~Transporters~~ A transporter that dispose ~~disposes~~ of used oil, including the use of used oil as a dust suppressant, ~~shall~~ must also comply with Subpart I of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.141 ~~Restrictions on transporters~~ Transporters that are not also processors Are Not Also Processors

- a) ~~Used oil transporters~~ A used oil transporter may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in subsection (b) of this Section, ~~used oil transporters~~ a used oil transporter may not process used oil unless they also comply with the requirements for processors in Subpart F of this Part.
- b) ~~Transporters~~ A transporter 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 unless ~~they~~ it also ~~comply~~ complies with the processor requirements in Subpart F of this Part.
- c) ~~Transporters~~ A transporter of used oil that is removed from oil-bearing electrical transformers and turbines and which is filtered by the transporter or at a transfer

facility prior to being returned to its original use ~~are~~ is not subject to the processor and re-refiner requirements in ~~739~~. Subpart F of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.142 Notification

- a) Identification numbers. A used oil transporter that has not previously complied with the notification requirements of RCRA Section 3010 ~~shall~~ must comply with these requirements and obtain a ~~U.S. EPA-USEPA~~ identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.
- b) Mechanics of notification.
 - 1) A used oil transporter that has not received a ~~U.S. EPA-USEPA~~ identification number may obtain one by notifying ~~U.S. EPA-USEPA~~ Region ~~V-5~~ of its used oil activity by submitting either of the following:
 - A) A completed ~~U.S. EPA-USEPA~~ Form 8700-12 (To obtain ordering information for ~~U.S. EPA-USEPA~~ Form 8700-12 call the RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or
 - B) A letter requesting a ~~U.S. EPA-USEPA~~ identification number. (Call the RCRA/Superfund Hotline to determine where to send a letter requesting a ~~U.S. EPA-USEPA~~ identification number.) The letter should include the following information:
 - i) The transporter company name;
 - ii) The owner of the transporter company;
 - iii) The mailing address for the transporter;
 - iv) The name and telephone number for the transporter point of contact;
 - v) The type of transport activity (i.e., transport only, transport and transfer facility, or transfer facility only);
 - vi) The location of all transfer facilities at which used oil is stored;
 - vii) The name and telephone number for a contact at each transfer facility.
 - 2) A used oil transporter that has not received an Illinois special waste

identification number may obtain one pursuant to 35 Ill. Adm. Code 809 by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, ~~2200 Churchill Road,~~ 1021 North Grand Avenue, Springfield, Illinois ~~62706-62794-9276~~ (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.143 ~~Used oil transportation~~ Oil Transportation

- a) Deliveries. A used oil transporter ~~shall~~ must deliver all used oil received to one of the following:
- 1) Another used oil transporter, provided that the transporter has obtained a ~~U.S. EPA-USEPA~~ identification number and an Illinois special waste identification number;
 - 2) A used oil processing facility that has obtained a ~~U.S. EPA-USEPA~~ identification number and an Illinois special waste identification number;
 - 3) An off-specification used oil burner facility that has obtained a ~~U.S. EPA-USEPA~~ identification number and an Illinois special waste identification number; or
 - 4) An on-specification used oil burner facility.
- b) U.S. DOT requirements. A used oil transporter ~~shall~~ must comply with all applicable requirements under the U.S. Department of Transportation in 49 CFR ~~parts~~ 171 through 180. A person transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 ~~shall~~ must comply with all applicable U.S. Department of Transportation Hazardous Materials Regulations in 49 CFR ~~Parts~~ 171 through 180.
- c) Used oil discharges.
- 1) In the event of a discharge of used oil during transportation, the transporter ~~shall~~ must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).
 - 2) If a discharge of used oil occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by a transporter that does not have a ~~U.S. EPA-USEPA~~ identification number and an Illinois special waste identification number.

- 3) An air, rail, highway, or water transporter that has discharged used oil ~~shall~~ must do the following:
 - A) Give notice, if required by federal 49 CFR 171.15 to the National Response Center (800-424-8802 or 202-426-2675); and
 - B) Report in writing as required by federal 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.
- 4) A water transporter that has discharged used oil ~~shall~~ must give notice as required by federal 33 CFR 153.203.
- 5) A transporter ~~shall~~ must clean up any used oil discharged that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.144 ~~Rebuttable presumption~~ Presumption for ~~used oil~~ Used Oil

- a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the used oil transporter ~~shall~~ must determine whether the total halogen content of used oil being transporter or stored at a transfer facility is above or below 1,000 ppm.
- b) The transporter ~~shall~~ must make this determination by the following means:
 - 1) Testing the used oil; or
 - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. ~~Subpart D~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, ~~Edition III~~ incorporated by reference in 35 Ill. Adm. Code 720.111, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721. ~~Appendix H~~). ~~U.S. EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. (202) 783-3238 (document number 955-001-00000-1).~~

- 1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.
 - 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFC are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) of this Section must be maintained by the transporter for at least ~~3~~ three years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.145 ~~Used oil storage~~ Oil Storage at transfer facilities ~~Transfer Facilities~~

A used oil transporter is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart E. A used oil transporter is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

- a) Applicability. This Section applies to used oil transfer facilities. Used oil transfer facilities are ~~transportation related~~ transportation-related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. ~~Transfer facilities~~ A transfer facility that store used oil for more than 35 days are subject to regulation under Subpart F.
- b) Storage units. ~~Owners or operators~~ An owner or operator of a used oil transfer facilities facility may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- c) Condition of units. ~~Containers~~ The following must be true of containers and aboveground tanks used to store used oil at a transfer facilities ~~must be~~ facility:
 - 1) ~~In~~ The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) ~~Not~~ The containers may not be leaking (no visible leaks).

- d) Secondary containment for containers. Containers used to store used oil at a transfer facilities-facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at a transfer facilities-facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Secondary containment for new aboveground tanks. New aboveground tanks used to store used oil at a transfer facilities-facility must be equipped with a secondary containment system.

- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- g) Labels.
- 1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil."
 - 2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil."
- h) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, an owner or operator of a transfer facility ~~shall~~must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.45(h) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;

- 3) Properly clean up and manage the released used oil and other materials; and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.146 Tracking

- a) Acceptance. ~~Used oil transporters shall~~ 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 ~~U.S. EPA-USEPA~~ USEPA identification number and Illinois special waste identification number (if applicable) of the generator, transporter, or processor that provided the used oil for transport;
 - 3) The quantity of used oil accepted;
 - 4) The date of acceptance; and
 - 5) The signature.
 - A) Except as provided in subsection (a)(5)(B) ~~below 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.
- b) Deliveries. ~~Used oil transporters shall~~ A used oil transporter must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:
 - 1) The name and address of the receiving facility or transporter;
 - 2) The ~~U.S. EPA-USEPA~~ 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) ~~below 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. ~~Used oil transporters shall~~ 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 28 Ill. Reg. _____, effective _____)

Section 739.147 Management of ~~residues~~ Residues

Transporters who generate residues from the storage or transport of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section 739.150 Applicability

- a) The requirements of this Subpart F apply to owners and operators of facilities that process used oil. 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 products. 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. The requirements of this Subpart F do not apply to the following:
 - 1) ~~Transporters~~ A transporter that ~~conduct~~ conducts incidental processing operations that occur during the normal course of transportation, as provided in Section 739.141; or
 - 2) ~~Burners~~ A burner that ~~conduct~~ conducts incidental processing operations that occur during the normal course of used oil management prior to burning, as

provided in Section 739.161(b).

- b) Other applicable provisions. ~~Used~~ A used oil processor who conduct processor that conducts the following activities are also subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5) of this Section.
- 1) ~~Processors who generate~~ A processors that generates used oil must also comply with Subpart C of this Part;
 - 2) ~~Processors who transport~~ A processors that transports used oil must also comply with Subpart E of this Part;
 - 3) Except as provided in subsections (b)(3)(A) and (b)(3)(B) of this Section, ~~processors who burn~~ a processor that burns off-specification used oil for energy recovery must also comply with Subpart G of this Part. Processors burning used oil for energy recovery under the following conditions are not subject to Subpart G of this Part:
 - A) The used oil is burned in an on-site space heater that meets the requirements of Section 739.123; or
 - B) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;
 - 4) ~~Processors who direct~~ A processor that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H of this Part; and
 - 5) ~~Processors who dispose~~ A processors that disposes of used oil, including the use of used oil as a dust suppressant, also must comply with Subpart I of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.151 Notification

- a) Identification numbers. A used oil processor or re-refiner that has not previously complied with the notification requirements of RCRA Section 3010 ~~shall~~ must and obtain a ~~U.S. EPA-USEPA~~ identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.
- b) Mechanics of notification.
 - 1) A used oil processor or re-refiner that has not received a ~~U.S. EPA-USEPA~~

identification number may obtain one by notifying ~~U.S. EPA-USEPA~~ Region ~~V~~5 of its used oil activity by submitting either of the following:

- A) A completed ~~U.S. EPA-USEPA~~ Form 8700-12 (To obtain ordering information for ~~U.S. EPA-USEPA~~ Form 8700-12 call the RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or
- B) A letter requesting a ~~U.S. EPA-USEPA~~ identification number. (Call the RCRA/Superfund Hotline to determine where to send a letter requesting a ~~U.S. EPA-USEPA~~ identification number.) The letter should include the following information:
 - i) The processor or re-refiner company name;
 - ii) The owner of the processor or re-refiner company;
 - iii) The mailing address for the processor or re-refiner;
 - iv) The name and telephone number for the processor or re-refiner point of contact;
 - v) The type of transport activity (i.e., transport only, transport and transfer facility, or transfer facility only);
 - vi) The location of all transfer facilities at which used oil is stored;
 - vii) The name and telephone number for a contact at each transfer facility.
- 2) A used oil processor or re-refiner that has not received an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, ~~2200 Churchill Road,~~ 1021 North Grand Avenue, Springfield, Illinois ~~62706~~ 62794-9276 (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.152 ~~General facility standards~~ Facility Standards

- a) Preparedness and prevention. ~~Owners and operators~~ An owners or operator of a used oil processors and re-refiners facilities shall processing or re-refining facility must comply with the following requirements:
 - 1) Maintenance and operation of a facility. ~~Facilities~~ All facilities must be maintained and operated to minimize the possibility of a fire, explosion, or

any unplanned sudden or non-sudden release of used oil to air, soil, or surface water ~~which~~ that could threaten human health or the environment.

- 2) Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in subsections (a)(2)(A) through (a)(2)(D) of this Section:
 - A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
 - B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;
 - C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and
 - D) Water at adequate volume and pressure to supply water hose streams, ~~or~~ foam producing equipment, ~~or~~ automatic sprinklers, or water spray systems.
- 3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.
- 4) Access to communications or alarm system.
 - A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2) of this Section.
 - B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2) of this Section.

- 5) Required aisle space. The owner or operator ~~shall~~must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
- 6) Arrangements with local authorities.
 - A) The owner or operator ~~shall~~must attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:
 - i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
 - ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
 - iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
 - iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses ~~which~~that could result from fires, explosions, or releases at the facility.
 - B) Where State or local authorities decline to enter into such arrangements, the owner or operator ~~shall~~must document the refusal in the operating record.
- b) Contingency plan and emergency procedures. ~~Owners and operators~~An owners or operator of a used oil processors and re-refiners facilities shall processing or re-refining facility must comply with the following requirements:
 - 1) Purpose and implementation of contingency plan.
 - A) Each owner or operator ~~shall~~must have a contingency plan for the

facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

- B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil ~~which~~that could threaten human health or the environment.

2) Content of contingency plan.

- A) The contingency plan must describe the actions facility personnel ~~shall~~must take to comply with subsections (b)(1) and (b)(6) of this Section in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.
- B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112, or 40 CFR 300, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.
- C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) of this Section.
- D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) of this Section), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.
- E) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
- F) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan

must describe ~~signal(s)~~ signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).

- 3) Copies of contingency plan. ~~A copy~~ Copies of the contingency plan and all revisions to the plan must be disposed as follows:
 - A) Maintained at the facility; and
 - B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

- 4) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever one of the following occurs:
 - A) Applicable regulations are revised;
 - B) The plan fails in an emergency;
 - C) The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;
 - D) The list of emergency coordinators changes; or
 - E) The list of emergency equipment changes.

- 5) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator ~~shall~~ must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: ~~U.S. EPA~~ USEPA cited the following as guidance: “The emergency coordinator’s responsibilities are more fully spelled out in [subsection (b)(6) ~~below~~ of this Section]. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility.”

- 6) Emergency procedures.
- A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) ~~shall~~ must immediately do the following:
- i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
 - ii) Notify appropriate State or local agencies with designated response roles if their help is needed.
- B) Whenever there is a release, fire, or explosion, the emergency coordinator ~~shall~~ must immediately identify the character, exact source, amount, and a real extent of any released materials. He or she may do this by observation or review of facility records of manifests and, if necessary, by chemical analysts.
- C) Concurrently, the emergency coordinator ~~shall~~ must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions).
- D) If the emergency coordinator determines that the facility has had a release, fire, or explosion ~~which that~~ could threaten human health, or the environment, outside the facility, he or she ~~shall~~ must report his findings as follows:
- i) If his assessment indicated that evacuation of local areas may be advisable, he or she ~~shall~~ must immediately notify appropriate local authorities. He or she ~~shall~~ must be available to help appropriate officials decide whether local areas should be evacuated; and
 - ii) He ~~shall~~ must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: ~~Name~~ name and telephone number of reporter; ~~Name~~ name and address of facility; ~~Time~~ time and type of incident (e.g., release, fire); ~~Name~~ name and quantity of ~~material(s)~~

materials involved, to the extent known; ~~The~~the extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.

- E) During an emergency, the emergency coordinator ~~shall~~must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.
- F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator ~~shall~~must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
- G) Immediately after an emergency, the emergency coordinator ~~shall~~must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.
- H) The emergency coordinator ~~shall~~must ensure that the following occur, in the affected ~~area(s)~~areas of the facility:
- i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and
 - ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
 - iii) The owner or operator ~~shall~~must notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) of this Section before operations are resumed in the affected ~~area(s)~~areas of the facility.
- I) The owner or operator ~~shall~~must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it ~~shall~~must submit a written report on the incident to ~~the Regional Administrator USEPA Region 5~~. The report must include the following:
- i) The name, address, and telephone number of the owner or operator;

- ii) The name, address, and telephone number of the facility;
- iii) The date, time, and type of incident (e.g., fire, explosion);
- iv) The name and quantity of ~~material(s)~~ materials involved;
- v) The extent of injuries, if any;
- vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- vii) The estimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.153 ~~Rebuttable presumption~~ Presumption for used oil Used Oil

- a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the owner or operator of a used oil processing facility ~~shall~~ must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.
- b) The owner or operator ~~shall~~ must make this determination by the following means:
 - 1) Testing the used oil; or
 - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. ~~Subpart D~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, ~~Edition III incorporated by reference in 35 Ill. Adm. Code 720.111~~, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721. ~~Appendix H~~). ~~U.S. EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. (202) 783-3238 (document number 955-001-00000-1).~~
- 1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils

and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.

- 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFC are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.154 ~~Used-oil-management~~ Oil Management

A used oil processor is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart F. A used oil processor or re-refiner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart F.

- a) Management units. ~~Used~~ A used oil processor shall processor may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. ~~Containers~~ The following must be true of containers and aboveground tanks used to store or process used oil at a processing facilities must be facility:
 - 1) ~~In~~ The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) ~~Not~~ The containers may not be leaking (no visible leaks).
- c) Secondary containment for containers. Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
 - 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

- B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
 - B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary containment for new aboveground tanks. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
 - B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be

sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

- f) Labels.
- 1) Containers and aboveground tanks used to store used oil at processing facilities must be labeled or marked clearly with the words “Used Oil.”
 - 2) Fill pipes used to transfer used oil into underground storage tanks at processing facilities must be labeled or marked clearly with the words “Used Oil.”
- g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, a processor ~~shall~~ must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.54(g) applies to releases that “occurred after the effective date of the authorized used oil program for the State in which the release is located.” The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted “the effective date of the authorized used oil program” to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like “the effective date of the used oil program in the authorized State in which the release is located,” the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
 - 2) Contain the released used oil;
 - 3) Properly clean up and manage the released used oil and other materials; and
 - 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- h) Closure.
- 1) Aboveground tanks. ~~Owners and operators~~ An owner or operator that store stores or process-processes used oil in aboveground tanks ~~shall~~ must comply with the following requirements:
 - A) At closure of a tank system, the owner or operator ~~shall~~ must remove

or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter.

- B) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (h)(1)(A) of this Section, then the owner or operator ~~shall~~ must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (35 Ill. Adm. Code 725.410).
- 2) Containers. ~~Owners and operators~~ An owner or operator that store-stores used oil in containers ~~shall~~ must comply with the following requirements:
- A) At closure, containers holding used oils or residues of used oil must be removed from the site;
- B) The owner or operator ~~shall~~ must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste 35 Ill. Adm. Code 721.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.155 ~~Analysis plan~~ Plan

~~Owners or operators~~ An owner or operator of a used oil processing and/or re-refining facilities facility must develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of Section 739.153 and, if applicable, Section 739.172. The owner or operator must keep the plan at the facility.

- a) Rebuttable presumption for used oil in Section 739.153. At minimum, the plan must specify the following:
- 1) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.
 - 2) If sample analyses are used to make this determination, the following requirements must be fulfilled:
 - A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either of the following:

- i) One of the sampling methods in Appendix I of 35 Ill. Adm. Code 721-Appendix I; or
 - ii) A method shown to be equivalent under 35 Ill. Adm. Code 720.120 and 720.121;
 - B) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and
 - C) The methods used to analyze used oil for the parameters specified in Section 739.153; and
 - 3) The type of information that will be used to determine the halogen content of the used oil.
- b) On-specification used oil fuel in Section 739.172. At a minimum, the plan must specify the following if Section 739.172 is applicable:
- 1) Whether sample analyses or other information will be used to make this determination;
 - 2) If sample analyses are used to make this determination, the following:
 - A) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either of the following:
 - i) One of the sampling methods in Appendix I of 35 Ill. Adm. Code 721-Appendix I; or
 - ii) A method shown to be equivalent under 35 Ill. Adm. Code 720.120 and 720.121;
 - B) Whether used oil will be sampled and analyzed prior to or after any processing;
 - C) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and
 - D) The methods used to analyze used oil for the parameters specified in Section 739.172; and
 - 3) The type of information that will be used to make the on-specification used oil fuel determination.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.156 Tracking

- a) Acceptance. ~~Used~~ A used oil processor shall ~~processor must~~ keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter that delivered the used oil to the processor;
 - 2) The name and address of the generator or processor from whom the used oil was sent for processing;
 - 3) The ~~U.S. EPA-~~ USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the processor;
 - 4) The ~~U.S. EPA-~~ 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.
- b) Deliveries. ~~Used~~ A used oil processor shall ~~processor must~~ keep a record of each shipment of used oil that is delivered to another used oil burner, processor, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records of each delivery must include the following information:
- 1) The name and address of the transporter that delivers the used oil to the burner, processor, or disposal facility;
 - 2) The name and address of the burner, processor, or disposal facility that will receive the used oil;
 - 3) The ~~U.S. EPA-~~ 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 ~~U.S. EPA-~~ 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.
- c) Record retention. The records described in subsections (a) and (b) ~~above of this Section~~ must be maintained for at least three years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.157 ~~Operating record and reporting~~ Record and Reporting

- a) Operating record.
 - 1) The owner or operator ~~shall~~ must keep a written operating record at the facility.
 - 2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility;
 - A) Records and results of used oil analyses performed as described in the analysis plan required under Section 739.155; and
 - B) Summary reports and details of all incidents that require implementation of the contingency plan, as specified in Section 739.152(b).
- b) Reporting. A used oil processor ~~shall~~ must report to ~~the Regional Administrator~~ USEPA Region 5, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), the following information concerning used oil activities during the previous calendar year;
 - 1) The ~~U.S. EPA-USEPA~~ USEPA identification number and Illinois special waste identification number, name, and address of the processor;
 - 2) The calendar year covered by the report; and
 - 3) The quantities of used oil accepted for processing and the manner in which the used oil is processed, including the specific processes employed.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.158 ~~Off-site shipments~~ Off-Site Shipments of used oil Used Oil

~~Used~~ A used oil processor ~~processor that initiate shipments~~ initiates a shipment of used oil off-site ~~shall~~ must ship the used oil using a used oil transporter that has obtained an ~~U.S. EPA-USEPA~~ USEPA

identification number and Illinois special waste identification number.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.159 Management of ~~residues~~ Residues

~~Owners and operators who generate~~ An owner or operator that generates residues from the storage, processing, or re-refining of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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

Section 739.160 Applicability

- a) General. The requirements of this Subpart G apply to used oil burners except as specified in subsections (a)(1) and ~~(a)(2)~~ (a)(2) of this Section. A used oil burner is 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). Facilities burning used oil for energy recovery under the following conditions are not subject to this Subpart G:
- 1) The used oil is burned by the generator in an on-site space heater under the provisions of Section 739.123; or
 - 2) The used oil is burned by a processor for purposes of processing used oil, which is considered burning incidentally to used oil processing.
- b) Other applicable provisions. ~~Used~~ A used oil burners-burner that conduct-conducts the following activities ~~are-is~~ also subject to the requirements of other applicable provisions of this Part as indicated below.
- 1) ~~Burners~~ A burner that generate-generates used oil ~~shall-must~~ also comply with Subpart C of this Part;
 - 2) ~~Burners~~ A burner that transport-transports used oil ~~shall-must~~ also comply with Subpart E of this Part;
 - 3) Except as provided in Section 739.161(b), ~~burners-a burner that process processes or re-refine-re-refines~~ used oil ~~shall-must~~ also comply with Subpart F of this Part;
 - 4) ~~Burners~~ A burner that direct-directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in

Section 739.111 ~~shall~~must also comply with Subpart H of this Part; and

- 5) ~~Burners~~A burner that ~~dispose~~disposes of used oil, including the use of used oil as a dust suppressant, ~~shall~~must comply with Subpart I of this Part.
- c) Specification fuel. This Subpart G does not apply to ~~persons~~a person burning used oil that meets the used oil fuel specification of Section 739.111, provided that the burner complies with the requirements of Subpart H of this Part.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.161 ~~Restriction on burning~~ Burning

- a) Off-specification used oil fuel may only be burned for energy recovery in ~~only~~ the following devices:
 - 1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;
 - 2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:
 - A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;
 - B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
 - C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123; or
 - 3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724~~Subpart O~~ or 35 Ill. Adm. Code 725~~Subpart O~~.
- b) Restrictions.
 - 1) With the following exception, a used oil ~~burners~~burner may not process used oil unless they also comply with the requirements of Subpart F of this Part.
 - 2) ~~Used~~A used oil ~~burners~~burner may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.162 Notification

- a) Identification numbers. A used oil burner that has not previously complied with the notification requirements of RCRA Section 3010 ~~shall~~ must comply with these requirements and obtain a ~~U.S. EPA~~ EPA-USEPA identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.
- b) Mechanics of notification. A used oil burner that has not received a ~~U.S. EPA~~ USEPA identification number may obtain one by notifying ~~the Regional Administrator~~ USEPA Region 5 of ~~their~~ its used oil activity by submitting either of the following:
- 1) A completed ~~EPA-USEPA~~ Form 8700-12 (To obtain ~~EPA-USEPA~~ Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or
 - 2) A letter requesting an ~~EPA-USEPA~~ identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an ~~EPA-USEPA~~ identification number. The letter should include the following information:
 - A) The burner company name;
 - B) The owner of the burner company;
 - C) The mailing address for the burner;
 - D) The name and telephone number for the burner point of contact;
 - E) The type of used oil activity; and
 - F) The location of the burner facility.
- c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, ~~2200 Churchill Road,~~ 1021 North Grand Avenue, Springfield, Illinois ~~62706~~ 62794-9276 (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.163 Rebuttable ~~presumption~~ Presumption for ~~used oil~~ Used Oil

- a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), a used oil burner ~~shall~~ must determine whether the total halogen content of used oil managed at the facility

is above or below 1,000 ppm.

- b) The used oil burner ~~shall~~must determine if the used oil contains above or below 1,000 ppm total halogens by the following means:
- 1) Testing the used oil;
 - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or
 - 3) If the used oil has been received from a processor subject to regulation under Subpart F of this Part, using information provided by the processor.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721.~~Subpart D~~. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, ~~Edition III~~ incorporated by reference in 35 Ill. Adm. Code 720.111, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721.~~Appendix H~~). ~~U.S. EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. 202-783-3238 (document number 955-001-00000-1).~~
- 1) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils and fluids are recycled in any other manner, or disposed.
 - 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~above of this Section~~ must be maintained by the burner for at least ~~3~~three years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.164 ~~Used oil storage~~ Oil Storage

A used oil burner is subject to all applicable Spill Prevention, Control and Countermeasures (federal

40 CFR 112) in addition to the requirements of this Subpart G. A used oil burner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart G.

- a) Storage units. ~~Used~~ A used oil burners-burner may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. ~~Containers~~ The following must be true of containers and aboveground tanks used to store used oil at a burner-facilities must be facility:
 - 1) ~~In~~ The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) ~~Not~~ The containers may not be leaking (no visible leaks).
- c) Secondary containment for containers. Containers used to store used oil at a burner facilities-facility must be equipped with a secondary containment system.
 - 1) The secondary containment system must consist of the following, at a minimum:
 - A) Dikes, berms, or retaining walls; and
 - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.
 - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.
 - 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the followng:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions

of the tank meet the ground; or

- B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary containment for existing aboveground tanks. ~~New~~ A new aboveground ~~tanks-tank~~ used to store used oil at burner facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
- A) Both of the following:
- i) Dikes, berms, or retaining walls; and
- ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
- B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Labels.
- 1) ~~Containers and~~ A container or aboveground ~~tanks-tank~~ used to store used oil at a burner facilities-facility must be labeled or marked clearly with the words "Used Oil."
- 2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil."
- g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of 40 CFR 280, Subpart F and which has occurred after October 4, 1996, a burner ~~shall~~ must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.64(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in

which the release is located.” The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted “the effective date of the authorized used oil program” to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like “the effective date of the used oil program in the authorized State in which the release is located,” the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials; and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.165 Tracking

- a) Acceptance. ~~Used~~ A used oil burner shall ~~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 ~~U.S. EPA~~ USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the burner;
 - 4) The ~~U.S. EPA~~ USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent to the burner;
 - 5) The quantity of used oil accepted; and
 - 6) The date of acceptance.

- b) Record retention. The records described in subsection (a) of this Section must be maintained for at least three years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.166 Notices

- a) Certification. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor, the burner must provide to the generator, transporter, or processor a one-time written and signed notice certifying ~~that the following:~~
- 1) ~~The~~ That the burner has notified ~~EPA-USEPA~~ stating the location and general description of his used oil management activities; and
 - 2) ~~The~~ That the burner will burn the used oil only in an industrial furnace or boiler identified in Section 739.161(a).
- b) Certification retention. The certification described in subsection (a) of this Section must be maintained for three years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.167 Management of ~~residues~~ Residues

~~Burners who generate~~ A burner that generates residues from the storage or burning of used oil must manage the residues as specified in Section 739.110(e).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section 739.170 Applicability

- a) Any person that conducts either of the following activities is subject to the requirements of this Subpart H:
- 1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
 - 2) 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.
- b) The following persons are not marketers subject to this Subpart H:

- 1) ~~Used~~ A used oil generator, and transporters or a transporter that transport-transport used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from ~~their~~ its facility to a used oil burner. However, ~~processors-a processor~~ that ~~burn-burns~~ some used oil fuel for purposes of processing are considered to be burning incidentally to processing. Thus, ~~generators and transporters~~ generator or transporter that direct-directs shipments of off-specification used oil to ~~processors-a processor~~ that incidentally ~~burn-burns~~ used oil ~~are-is~~ not ~~marketers-a marketer~~ subject to this Subpart H;
 - 2) ~~Persons-A person~~ that ~~direct-directs~~ shipments of on-specification used oil and ~~that-are~~ which is not the first person to claim the oil meets the used oil fuel specifications of Section 739.111.
- c) Any person subject to the requirements of this Subpart H ~~shall-must~~ also comply with one of the following:
- 1) Subpart C of this Part - Standards for Used Oil Generators;
 - 2) Subpart E of this Part - Standards for Used Oil Transporters and Transfer Facilities;
 - 3) Subpart F of this Part - Standards for Used Oil Processors and Re-refiners; or
 - 4) Subpart G of this Part - Standards for Used Oil Burners that Burn Off-Specification Used Oil for Energy Recovery.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.171 Prohibitions

A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner that fulfills the following conditions:

- a) Has a ~~U.S. EPA-USEPA~~ identification number and Illinois special waste identification number; and
- b) Burns the used oil in an industrial furnace or boiler identified in Section 739.161(a).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.172 ~~On-specification used oil fuel~~ On-Specification Used Oil Fuel

- a) Analysis of used oil fuel. A generator, transporter, processor, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of Section 739.111 by performing analyses or obtaining copies of

analyses or other information documenting that the used oil fuel meets the specifications.

- b) Record retention. A generator, transporter, processor, or burner that first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under this Part ~~shall~~ must keep copies of analyses of the used oil (or other information used to make the determination) for three years.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.173 Notification

- a) A used oil fuel marketer subject to the requirements of this Section that has not previously complied with the notification requirements of RCRA Section 3010 ~~shall~~ must comply with these requirements and obtain a ~~U.S. EPA~~ USEPA identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.
- b) A used oil marketer that has not received a ~~U.S. EPA~~ USEPA identification number may obtain one by notifying the ~~the Regional Administrator~~ USEPA Region 5 of its used oil activity by submitting either of the following:
- 1) A completed ~~EPA~~ USEPA Form 8700-12; or
 - 2) A letter requesting an ~~EPA~~ USEPA identification number. The letter should include the following information:
 - A) The marketer company name;
 - B) The owner of the marketer;
 - C) The mailing address for the marketer;
 - D) The name and telephone number for the marketer point of contact; and
 - E) The type of used oil activity (i.e., generator directing shipments of off-specification used oil to a burner).
- c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, ~~2200 Churchill Road,~~ 1021 North Grand Avenue, Springfield, Illinois ~~62706~~ 62794-9276 (telephone: 217-782-6761).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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 ~~shall~~must keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter that delivers the used oil to the burner;
 - 2) The name and address of the burner that will receive the used oil;
 - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner;
 - 4) The USEPA identification number and Illinois special waste identification number of the burner;
 - 5) The quantity of used oil shipped; and
 - 6) The date of shipment.
- 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 ~~shall~~must keep a record of each shipment of used oil to ~~an on-specification used oil burner~~ 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 28 Ill. Reg. _____, effective _____)

Section 739.175 Notices

- a) Certification. Before a used oil generator, transporter, or processor directs the first shipment of off-specification used oil fuel to a burner, ~~he~~it must obtain a one-time written and signed notice from the burner certifying ~~that~~ the following:
- 1) ~~The~~ That the burner has notified ~~EPA-USEPA~~ stating the location and general description of used oil management activities; and
 - 2) ~~The~~ That the will burn the off-specification used oil only in an industrial furnace or boiler identified in Section 739.161(a).
- b) Certification retention. The certification described in subsection (a) ~~above of this Section~~ must be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART I: STANDARDS FOR USE AS A DUST SUPPRESSANT DISPOSAL
OF USED OIL

Section 739.180 Applicability

The requirements of this Subpart I apply to all used oils that cannot be recycled and are therefore being disposed.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.181 Disposal

- a) Disposal of hazardous used oils. ~~Used oils~~ A use oil that ~~are~~ is identified as a hazardous waste and cannot be recycled in accordance with this Part must be managed in accordance with the hazardous waste management requirements of 35 Ill. Adm. Code 703, 720 through 726, and 728.
- b) Disposal of nonhazardous used oils. ~~Used oils~~ A use oil that ~~are~~ is not a hazardous ~~wastes~~ waste and cannot be recycled under this Part must be disposed in accordance with the requirements of 35 Ill. Adm. Code 807 through 815 and 40 CFR 257 and 258.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 739.182 Use as As a ~~dust suppressant~~ Dust Suppressant

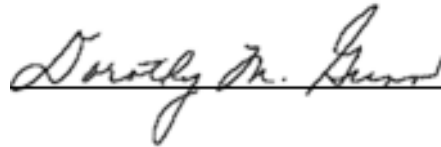
- a) ~~The use of used oil as a dust suppressant is prohibited, except when such activity takes place in one of the states listed in subsection (c) of this Section.~~

- b) ~~A State may petition (e.g., as part of its authorization petition submitted to EPA under 35 Ill. Adm. Code 721.105 or by a separate submission) EPA to allow the use of used oil (that is not mixed with hazardous waste and does not exhibit a characteristic other than ignitability) as a dust suppressant. The State must show that it has a program in place to prevent the use of used oil and hazardous waste mixtures or used oil exhibiting a characteristic other than ignitability as a dust suppressant. In addition, such programs must minimize the impacts of use as a dust suppressant on the environment.~~
- e) ~~This subsection corresponds to 40 CFR 268.182(c) which lists the States with an authorized program for use of used oil as a dust suppressant. This subsection is adopted to retain correlation with the Federal rules.~~

The use of used oil as a dust suppressant is prohibited.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 1, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board