



## OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

January 14, 2010

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**JAN 19 2010**

**STATE OF ILLINOIS**  
**Pollution Control Board**

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

Dear JOHN THERRIAULT ASSISTANT CLERK

Your rules Listed below met our codification standards and have been published in Volume 34, Issue 4 of the Illinois Register, dated 1/22/2010.

### ADOPTED RULES

Definitions and General Provisions  
35 Ill. Adm. Code 211 1391  
Point of Contact: Mike McCambridge

### PROPOSED RULES

Standards for the Management of Used Oil  
35 Ill. Adm. Code 739 1257  
Point of Contact: Nancy Miller

Special Waste Classifications  
35 Ill. Adm. Code 808 1267  
Point of Contact: Nancy Miller

Nonhazardous Special Waste Hauling and the Uniform Program  
35 Ill. Adm. Code 809 1275  
Point of Contact: Nancy Miller

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

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Standards for the Management of Used Oil
- 2) Code citation: 35 Ill. Adm. Code 739
- 3) Section Numbers: Proposed Action:  
739.100 Amend
- 4) Statutory authority: Implementing Sections 21, 22, 22.01 and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9, 27].
- 5) A complete description of the subjects and issues involved: For a more detailed description of this rulemaking, see the Board's December 17, 2009, opinion and order Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809 (R06-20 B).

During the first-notice period in the companion docket R06-20 A, the Board received comments from the Illinois Environmental Protection Agency (Agency) and NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association (NORA) addressing addition of three definitions to the Board's proposal. The Board opened this Docket B in order to address one definition in Section 739.100, which the Board had not included in its August 20, 2009, first-notice opinion and order.

The amendments proposed in the companion Docket A are intended to exempt from the special waste manifest requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809) used oil that is defined by, and managed in accordance, with Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements specific mixtures of used oil and other materials. The proposal also amends used oil tracking provisions in Part 739 to include information required by a manifest for those specified mixtures.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: NORA, which originated this rulemaking with the Board, did not use a published study or report in developing its original or amended proposal.
- 7) Will these proposed rules replace emergency rules currently in effect? No.
- 8) Does this rulemaking contain an automatic repeal date? No.

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NOTICE OF PROPOSED AMENDMENT

- 9) Does these proposed rule contain incorporations by reference? No.
- 10) Are there any other amendments pending on this Part? Yes.

In the Matter of: Proposed Amendments to the Board's Special Waste Regulations  
Concerning Used Oil, 35 Ill. Adm. Code 739, 808, 809, R06-20 A

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
739.146	Amend	33 Ill. Reg. 12426; September 11, 2009
739.156.1	Amend	33 Ill. Reg. 12426; September 11, 2009
739.165.1.1.1.1.1	Amend	33 Ill. Reg. 12426; September 11, 2009
739.174	Amend	33 Ill. Reg. 12426; September 11, 2009

- 11) Statement of statewide policy objectives:

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

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

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

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

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

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

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

13) Initial regulatory flexibility analysis:

In Part 739, the Agency proposes to add a single new definition of the term “classification” as employed in amendments proposed in the companion docket R06-20 A.

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

NORA, a trade association of companies providing used oil collection and recycling services, originally proposed these regulations. The additional definition may affect any generator and transporter of used oil.

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

As the amended rules proposed in the companion docket R06-20 A would provide an exemption from existing requirements, and because this docket proposes only a single new definition, the proposal does not require procedures for compliance.

C) Types of professional skills necessary for compliance:

None.

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

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

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

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 739  
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section  
739.100      Definitions

SUBPART B: APPLICABILITY

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

SUBPART C: STANDARDS FOR USED OIL GENERATORS

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

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

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

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER  
AND TRANSFER FACILITIES

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section

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

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section

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

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

Section

- 739.160 Applicability
- 739.161 Restriction on Burning
- 739.162 Notification
- 739.163 Rebuttable Presumption for Used Oil
- 739.164 Used Oil Storage
- 739.165 Tracking
- 739.166 Notices
- 739.167 Management of Residues

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section

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

SUBPART I: DISPOSAL OF USED OIL

Section

739.180      Applicability  
739.181      Disposal  
739.182      Use As a Dust Suppressant

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

**SOURCE:** Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008; amended in R06-20 (A) at 34 Ill. Reg. \_\_\_\_, effective \_\_\_\_; amended in R06-20 (B) at .34 Ill. Reg. \_\_\_\_, effective \_\_\_\_\_.

SUBPART A: DEFINITIONS

**Section 739.100 Definitions**

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

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

**BOARD NOTE:** This definition is different from the definition for “aboveground tank” given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks that contain hazardous wastes. This definition of aboveground tank is limited to this Part only.

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

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

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

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

A continuous on-site installation program had begun, or

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

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

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

BOARD NOTE: Household “do-it-yourselfer” used oil is not subject to the State’s



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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

special waste hauling permit requirements under Part 809.

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

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

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

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

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

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

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

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

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

“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,

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

(Source: Amended at 34 Ill. Reg.\_\_\_\_, effective \_\_\_\_\_)

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NOTICE OF PROPOSED AMENDMENT

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- 1) Heading of the Part: Special Waste Classifications
- 2) Code citation: 35 Ill. Adm. Code 808
- 3) Section Numbers: Proposed Action:  
808.110 Amend
- 4) Statutory authority: Implementing Sections 21, 22, 22.01 and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9, 27].
- 5) A complete description of the subjects and issues involved: For a more detailed description of this rulemaking, see the Board's December 17, 2009, opinion and order Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809 (R06-20 B).

During the first-notice period in the companion docket R06-20 A, the Board received comments from the Illinois Environmental Protection Agency (Agency) and NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association (NORA) addressing addition of three definitions to the Board's proposal. The Board opened this Docket B in order to address two definitions in Section 808.110, which the Board had not included in its August 20, 2009, first-notice opinion and order.

The amendments proposed in the companion Docket A are intended to exempt from the special waste manifest requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809) used oil that is defined by, and managed in accordance, with Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements specific mixtures of used oil and other materials. The proposal also amends used oil tracking provisions in Part 739 to include information required by a manifest for those specified mixtures.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: NORA, which filed this rulemaking with the Board, did not use a published study or report in developing its original or amended proposal.
- 7) Will these proposed rules replace emergency rules currently in effect? No.
- 8) Does this rulemaking contain an automatic repeal date? No.

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NOTICE OF PROPOSED AMENDMENT

9) Do these proposed rule contain incorporations by reference? No.

10) Are there any other amendments pending on this Part? Yes.

In the Matter of: Proposed Amendments to the Board's Special Waste Regulations  
Concerning Used Oil, 35 Ill. Adm. Code 739, 808, 809, R06-20 A

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
808.121	Amend	33 Ill. Reg. 12439; September. 11, 2009

11) Statement of statewide policy objectives:

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

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

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

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

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

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

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

13) Initial regulatory flexibility analysis:

In Part 808, the Agency proposes to add two new definitions, “Btu” and “wastewater,” as employed in amendments proposed in the companion docket R06-20 A.

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

NORA, a trade association of companies providing used oil collection and recycling services, originally proposed these regulations. The additional definition may affect any generator and transporter of used oil.

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

As the amended rules proposed in the companion docket R06-20 A would provide an exemption from existing requirements, and because this docket proposes only two new definitions, the proposal does not require procedures for compliance.

C) Types of professional skills necessary for compliance:

None.

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

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

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

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 808

SPECIAL WASTE CLASSIFICATIONS

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: CLASSES OF SPECIAL WASTE

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

SUBPART C: CRITERIA AND DATA REQUIREMENTS

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

SUBPART D: REQUEST FOR WASTE CLASSIFICATION

Section	
808.400	Introduction

ILLINOIS REGISTER

---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

SUBPART E: REVIEW OF CLASSIFICATION REQUESTS

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

SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS

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

SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT

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

SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES

Section	
808.600	Introduction

808.APPENDIX A	Assignment Of Special Waste To Classes
808.APPENDIX B	Toxicity Hazard



ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

**AUTHORITY:** Implementing Sections 21, 22, 22.01 and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9, 27].

**SOURCE:** Adopted in R89-13A at 14 Ill. Reg. 14043, effective August 15, 1990; amended in R98-29 at 23 Ill. Reg. 6875, effective July 1, 1999; amended in R06-20 (A) at 34 Ill. Reg. \_\_\_\_, effective \_\_\_\_; amended in R06-20 (B) at 34 Ill. Reg. \_\_\_\_, effective \_\_\_\_.

SUBPART A: GENERAL PROVISIONS

**Section 808.110 Definitions**

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Board" means the Illinois Pollution Control Board.

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

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

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

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

"LC<sub>50</sub>" means that concentration of a substance administered to test organisms that is lethal to 50 percent of a population of exposed organisms in a given time

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

period. "Inhalation rat" means that the substance is administered by inhalation and the test organisms are laboratory rats. "Aquatic toxicity" means that the substance is administered in water to specified free-swimming test organisms.

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

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

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

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

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

*"Special waste" means any hazardous waste, and any industrial process waste or*

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

*pollution control waste which has not been declassified* pursuant to Section 808.245. (Section 3.45 of the Act.)

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

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

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

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
809.103	Amend
- 4) Statutory authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, and 22.2 and 27].
- 5) A complete description of the subjects and issues involved: For a more detailed description of this rulemaking, see the Board's December 17, 2009, opinion and order Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil: 35 Ill. Adm. Code 739, 808, 809 (R06-20 B).

During the first-notice period in the companion docket R06-20 A, the Board received comments from the Illinois Environmental Protection Agency (Agency) and NORA, An Association of Responsible Recyclers, formerly known as the National Oil Recycling Association (NORA) addressing addition of three definitions to the Board's proposal. The Board opened this Docket B in order to address two definitions in Section 809.103, which the Board had not included in its August 20, 2009, first-notice opinion and order.

The amendments proposed in the companion Docket A are intended to exempt from the special waste manifest requirements of Parts 808 and 809 (35 Ill. Adm. Code 808, 809) used oil that is defined by, and managed in accordance, with Part 739 (35 Ill. Adm. Code 739) and also to exempt from those requirements specific mixtures of used oil and other materials. The proposal also amends used oil tracking provisions in Part 739 to include information required by a manifest for those specified mixtures.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: NORA, which filed this rulemaking with the Board, did not use a published study or report in developing its original or amended proposal.
- 7) Will these proposed rules replace emergency rules currently in effect? No.
- 8) Does this rulemaking contain an automatic repeal date? No.

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 9) Do these proposed rules contain incorporations by reference? No.
- 10) Are there any other amendments pending on this Part? Yes.

In the Matter of: Proposed Amendments to the Board's Special Waste Regulations  
Concerning Used Oil, 35 Ill. Adm. Code 739, 808, 809, R06-20 A

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
809.301	Amend	33 Ill. Reg. 12446;September 11, 2009
809.302	Amend	33 Ill. Reg. 12446;September 11, 2009
809.501	Amend	33 Ill. Reg. 12446; September 11, 2009

- 11) Statement of statewide policy objectives:

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

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

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

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

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

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

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

13) Initial regulatory flexibility analysis:

In Part 809, the Board proposes to add two new definitions, “Btu” and “wastewater,” as employed in amendments proposed in the companion docket R06-20 A

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

NORA, a trade association of companies providing used oil collection and recycling services, originally proposed these regulations. The additional definition may affect any generator and transporter of used oil.

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

As the amended rules proposed in the companion docket R06-20 A would provide an exemption from existing requirements, and because this docket proposes only two new definitions, the proposal does not require procedures for compliance.

C) Types of professional skills necessary for compliance:

None.

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

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

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

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 809  
NONHAZARDOUS SPECIAL WASTE HAULING  
AND THE UNIFORM PROGRAM

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section	
809.201	Nonhazardous Special Waste Hauling Permits – General
809.202	Applications for Nonhazardous Special Waste Hauling Permit – Contents
809.203	Applications for Nonhazardous Special Waste Hauling Permit – Signatures and Authorization
809.204	Applications for Nonhazardous Special Waste Hauling Permit – Filing and Final Action by the Agency
809.205	Nonhazardous Special Waste Hauling Permit Conditions
809.206	Nonhazardous Special Waste Hauling Permit Revision
809.207	Transfer of Nonhazardous Special Waste Hauling Permits
809.208	Nonhazardous Special Waste Hauling Permit Revocation
809.209	Permit No Defense
809.210	General Exemption from Nonhazardous Special Waste Hauling Permit Requirements
809.211	Exemptions for Nonhazardous Special Waste Transporters
809.212	Duration of Nonhazardous Special Waste Hauling Permits

SUBPART C: DELIVERY AND ACCEPTANCE

Section

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

SUBPART D: PERMIT AVAILABILITY AND SYMBOLS

- Section
- 809.401 Permit Availability
- 809.402 Nonhazardous Special Waste Symbols

SUBPART E: MANIFESTS, RECORDS AND REPORTING

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

SUBPART F: DURATION OF PERMITS AND TANK NUMBERS

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

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

- Section
- 809.701 General Provision

SUBPART H: EFFECTIVE DATES

- Section
- 809.801 Compliance Date
- 809.802 Exceptions (Repealed)

SUBPART I: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE

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



ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART J: UNIFORM PROGRAM

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

809.APPENDIX A Old Rule Numbers Referenced (Repealed)

AUTHORITY: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2, and 27] (see P.A. 90-219).

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

SUBPART A: GENERAL PROVISIONS

**Section 809.103 Definitions**

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Board" means the Illinois Pollution Control Board.

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

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

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

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

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

ILLINOIS REGISTER

---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

"Manifest" means the form provided or prescribed by the Agency and used for identifying name, quantity, and the origin, routing, and destination of special waste during its transportation from the point of generation to the point of disposal, treatment, or storage, as required by this Part, 35 Ill. Adm. Code: Subtitle G, or by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or regulations thereunder.

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

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

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

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

"On-site" means (for the purpose of transporting hazardous waste) on the same or geographically contiguous property under the control of the same person even if such contiguous property is divided by a public or private right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-

ILLINOIS REGISTER

---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

way that the person controls, and to which the public does not have access, is also considered on-site property.

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

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

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

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

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

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

"Principal place of business" means the state in which a person owning vehicles used for transporting hazardous waste maintains its central records or majority of

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

its records relating to the transportation of hazardous materials; or the state in which the person owning vehicles used for transporting hazardous waste has the plurality of its mileage.

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

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

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

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

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

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

"Special waste" means any of the following:

*Potentially infectious medical waste;*

*Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 Ill. Adm. Code 722.111, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with 35 Ill. Adm. Code 726 and proven to be nonhazardous;*

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

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

*A liquid, as determined using the paint filter test set forth*

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

*in 35 Ill. Adm. Code 811.107(m)(3)(a);*

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

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

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

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

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

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

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

"Spill" means any accidental discharge of special waste.

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

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

treatment.

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

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

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

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

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

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

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

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

"Vehicle" means any *self-propelled motor vehicle, except a truck tractor without*

ILLINOIS REGISTER

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

*a trailer, designed or used for the transportation of hazardous waste.* [415 ILCS 5/22.2(1-5)(1)]

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

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

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)