

**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**

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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].

SOURCE: Adopted in R89-13A at 14 Ill. Reg. 14043, effective August 15, 1990; amended in R98-29 at 23 Ill. Reg. 6875, effective July 1, 1999; amended in R06-20 at 34 Ill. Reg. 3310, effective February 25, 2010; amended in R06-20 (B) at 34 Ill. Reg. 17381, effective October 29, 2010.

## **SUBPART A: GENERAL PROVISIONS**

### **Section 808.100 Purpose, Scope and Applicability**

- a) This Part provides a means by which persons may obtain a classification or declassification of special (non-Resources Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.) waste as defined in Section 808.110, based on the degree of hazard of the waste or other characteristics, to assure that the waste receives appropriate handling. This Part does not apply to materials which are not special wastes as defined by the Act.
- b) This Part allows any person generating such special waste to request waste classification and prescribes procedures by which applicants may supply detailed information in order to establish the appropriate waste classification. For the purposes of this Part, the term "classification" includes declassification. Waste which has been declassified shall not be deemed special waste until further action to the contrary by the Agency pursuant to this Part.
- c) Special wastes that are declassified pursuant to this Part are not subject to any of the special waste hauling, disposal and reporting requirements of 35 Ill. Adm. Code 809, but are still subject to other Parts of 35 Ill. Adm. Code: Subtitle G which govern the transport, treatment, storage and hauling of non-special wastes.

### **Section 808.101 Transitional Rule**

Wastestreams which have been declassified by the Agency pursuant to Section 22.9(c) of the Act prior to the effective date of these rules shall remain declassified for a period of not more than two years following the effective date of these rules, unless extended by the Board in a variance proceeding. In order to accommodate its workload, the Agency may, by giving not less than 180 days' prior written notice, require generators to make reapplication by a date certain within this two year time period. The Agency may extend this reapplication deadline for a period of not more than an additional 180 days, but in no event may the Agency extend the deadline to a date more than two years following the effective date of this Part. Upon application before the deadline, such wastestreams shall remain declassified during the pendency of any Agency determination or any appeal to the Board of such determination made pursuant to Section 22.9(e) of the Act. As

provided in Section 808.241, all special (non-RCRA) wastes shall be deemed Class A special wastes unless a contrary determination has been made pursuant to this Part.

### **Section 808.110 Definitions**

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Board" means the Illinois Pollution Control Board.

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

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

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

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

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

"Aquatic toxicity" means that the substance is administered in water to specified free-swimming test organisms.

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

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

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

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

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

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

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

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

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

“Washwater”, as used in this Subpart, means a mixture of water, nonhazardous cleaning compounds, and residue that results from cleaning surfaces and equipment and that is collected separately from sewage.

“Wastewater”, as used in this Subpart, means stormwater, surface water, groundwater or nonhazardous washwater that has been contaminated with used oil but has not been mixed with sewage, industrial waste or any other waste.

(Source: Amended at 34 Ill. Reg.17381, effective October 29, 2010)

### **Section 808.111      Incorporations by Reference**

- a)      The Board incorporates the following materials by reference:

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 354-3300:

ANSI/ASQC C2-1985, "Specification of General Requirements for a Quality Program", approved November, 1985.

ANSI/ASQC S1-1987, "An Attribute Skip-Lot Sampling Program", approved March 6, 1987.

ANSI/ASQC Q94-1987, "Quality Management and Quality System Elements -- Guidelines", Approved June 15, 1987.

ANSI/ASQC Z1.4-1981, "Sampling Procedures and Tables for Inspection by Attributes", Approved 1981.

ANSI/ASQC Z1.9-1980, "Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming", Approved March 6, 1980.

ASTM. Available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, (215) 299-5400:

ASTM Standard D 3828-87 "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved December 14, 1987.

ASTM Standard D-93-79 or D-93-80 "ASTM Standard Test Methods for Flash Point Pensky-Martens Closed Tester," approved August 19, 1980.

ASTM Standard E 896-87 "Standard Test Method for Conducting Aqueous Direct Photolysis Tests", approved September 25, 1987.

ASTM Standard E 1147-87 "Standard Test Method for Partition Coefficient (n-Octanol/Water) Estimation by Liquid Chromatography", approved February 27, 1987.

ASTM Standard E 1148-87 "Standard Test Method for Measurements of Aqueous Solubility", approved April 3, 1987

NTIS. Available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600:

"Methods for Chemical Analysis of Water and Wastes", Third Edition, March, 1983. (Document number PB 84-128677)

"Test Methods for Evaluating Solid Waste", Physical/Chemical Methods," EPA Publication number SW-846 United States Environmental Protection Agency (Third Edition, November, 1986).

Federal Register. Available from the Superintendent of Documents, United States Printing Office, Washington, DC 20402:

USEPA Guidelines for Carcinogenic Risk Assessment, 51 Fed. Reg. 33992-34003 (September 21, 1986).

- b) This Section incorporates no future amendments or editions.

**Section 808.121** Generator Obligations

- a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

- b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:
  - 1) The person is subject to the small quantity generator exemption of Section 808.123.
  - 2) The transporter and waste are subject to a transporter exemption under 35 Ill. Adm. Code 809.211.

- 3) The Agency has determined pursuant to this Part that the waste is not a special waste.
- 4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- 5) The generator is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
- 6) The generator is not required to complete a manifest for the following used oil mixtures, provided that the generator complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
  - A) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that the mixture contains more than 50 percent used oil by either volume or weight;
  - B) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content greater than 5,000 prior to being mixed with the used oil, when:
    - i) the characteristic has been extinguished in the resultant mixture;
    - ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
    - iii) the mixture contains more than 50 percent used oil by either volume or weight;
  - C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
  - D) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the



nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.

- c) No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:
  - 1) At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807; or
  - 2) At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act.
- d) No person shall deliver special waste to a transporter or a permitted facility without a supplemental wastestream permit.
- e) No person shall deliver to a transporter or permitted facility special waste with a wastestream identification number unless the waste conforms with the wastestream description in the wastestream classification determination.

(Source: Amended at 34 Ill. Reg. 3296, effective February 25, 2010)

#### **Section 808.122 Manifests**

Except as otherwise provided by Section 808.121(b), the generator of any special waste shall prepare a manifest, as prescribed by 35 Ill. Adm. Code 809.501, prior to shipment.

#### **Section 808.123 Small Quantity Generators**

Any person who generates a total quantity of special waste of 100 kilograms (220 pounds) or less in a calendar month is not required to initiate a manifest when delivering such special waste to a hauler, provided that such waste shall not be accumulated for more than 180 days prior to shipment. In any action to enforce the requirements of this Part in which the generator asserts the applicability of this Section, the burden of proof shall be on the generator to establish compliance with the monthly quantity limitation and the time limit on accumulation. The generator shall record and maintain the quantities and dates of waste generation and accumulation to establish compliance with such quantity and time limitations.

### **SUBPART B: CLASSES OF SPECIAL WASTE**

#### **Section 808.240 Special Waste Classes**

- a) This Subpart contains rules for the classification and declassification of special (non-RCRA) wastes. There are two classes of such special wastes, "Class A" and "Class B." Wastes which are declassified pursuant to Section 808.245 of this Part shall no longer be considered special wastes.
- b) "Class A" special wastes are those special (non-RCRA) wastes which the Agency has not determined, pursuant to this Part, to be a Class B special waste. "Class B" special wastes are those special (non-RCRA) wastes which the Agency determines, pursuant to Section 808.245, pose a low or moderate degree of hazard to the environment or the public health in the course of their transportation, storage, treatment or disposal.
- c) This Subpart should be read in conjunction with the flowchart in Appendix A. The flowchart is employed by answering the queries in order, beginning from the top, and following the lines corresponding to the appropriate responses down the chart until the waste is classified. The Sections of this Subpart are so arranged on that flowchart that the first Section on the chart which assigns a waste classification to the waste controls.
- d) Subpart D contains procedures by which a person may request that the Agency assign a special wastestream to a class.
- e) Subpart H contains waste classifications based on source or characteristics to which specific wastestreams have been assigned.

**Section 808.241      Default Classification of Special Wastes**

Any special (non-RCRA) waste is a Class A special waste unless and until the Agency determines otherwise pursuant to this Part.

**Section 808.242      Special Handling Waste**

The Agency may determine that a waste which is declassifiable pursuant to Section 808.245(d) is a special handling waste. Any such waste shall be so identified by the Agency, together with appropriate conditions on its form and mode of containment in transport or storage. A declassifiable waste which is determined to be a special handling waste is a Class B special waste.

BOARD NOTE: This rule sets the special handling flag. A special handling waste will require manifesting, regardless of the toxic score under Section 808.245, to protect the waste hauler, the treatment or disposal operator and their employees.

**Section 808.243      Wastes Categorized by Source**

- a) Subpart H defines certain categories of wastes, based on the type of source or generator, and assigns them to classes.
- b) A waste which meets the criteria for inclusion within a category based on the type of source or generator, is a special waste of the class specified for that category.

**Section 808.244 Wastes Categorized by Characteristics**

- a) Subpart H defines certain categories of waste, based on their characteristics, and assigns them to classes.
- b) A waste which meets the criteria for inclusion within a category based on its characteristics is a special waste of the class specified for that category.

**Section 808.245 Classification of Wastes**

Special wastes which are subject to this Subpart shall be classified or declassified based on toxic score as follows:

- a) Compute the toxic score for the wastestream pursuant to Appendix B or, where applicable, pursuant to Section 808.431, utilizing a data base which meets the standards of Section 808.302. However, if use of Appendix B or Section 808.431 is demonstrated to the Agency to be inapplicable or unavailable for the wastestream, the generator may employ a bioassay procedure approved by the Agency pursuant to Section 808.302, solely for the purpose of determining if the waste in its undiluted form results in no behavioral response from the exposed test organisms and, thus, warrants a toxic score of 0 (zero). Where applicable, the toxic score shall include the maximum volume of waste to which such score applies.
- b) Except as authorized under subsection (e), a wastestream receiving a toxic score of 3 shall be deemed a Class A special waste.
- c) Except as authorized under subsection (e), a wastestream receiving a toxic score of 1 or 2 shall be deemed a Class B special waste; however, such waste shall be deemed a Class A special waste if the Agency determines that it exhibits one or more of the following characteristics:
  - 1) The physical form of the waste renders it difficult to manage in transport, storage or handling prior to final disposition, or in a landfill (Examples of wastes possessing such form are wastes containing free liquids, and wastes in finely divided form which are susceptible to airborne dispersal.);

- 2) The chemical properties of the waste, if exposed to the atmosphere or to an aqueous environment, render it difficult to manage in the event of a leak, spill or other loss of containment during transport, storage or handling prior to final disposition, or in a landfill (Examples of wastes possessing such properties are wastes which produce noxious or toxic fumes or gases in sufficient concentration and quantity to pose a threat to the public health or the environment, wastes which are ignitable or flammable, wastes which are readily soluble in water, and wastes which are highly mobile in an aqueous environment, including in groundwater.); or
  - 3) The unstable nature of the waste renders it difficult to contain during transport, storage or handling prior to final disposition, or in a landfill (Examples of wastes possessing such an unstable nature are wastes which are corrosive or reactive, and any other wastes which, under foreseeable conditions, may cause the premature failure of waste containment devices and structures.).
- d) A wastestream receiving a toxic score of 0 shall be declassified, except that such a waste that is determined by the Agency to be a special handling waste shall be deemed a Class B special waste.
  - e) Notwithstanding a wastestream's toxic score, the Agency may condition a lowered classification or a declassification of a special waste under this Section. Such conditions imposed by the Agency shall be limited to measures by which the generator shall, by particular modes or forms of containment or treatment, assure that the dangerous characteristics of the wastes are avoided or reduced. (Examples of such measures are neutralization of acidic wastes prior to shipment, containment or encapsulation of finely divided wastes, and treatment of ignitable wastes so as to preclude ignition.) However, under no circumstances shall a wastestream with a toxic score of 3 be declassified based solely upon its mode of containment.
  - f) All conditions or limitations imposed by the Agency that relate to the toxic score (including, where applicable, maximum wastestream volume) and classification or declassification of a wastestream shall be specified in the Agency's determination.

## **SUBPART C: CRITERIA AND DATA REQUIREMENTS**

### **Section 808.300 Introduction**

This Subpart governs criteria and data requirements which shall be used to predict the degree of hazard pursuant to Section 808.245.

**Section 808.301 Degree of Hazard Determination by Computer**

- a) The Agency may employ electronic data processing equipment and programs to accomplish the purposes of this Subpart. Any such program must assign a degree of hazard according to the method specified in Section 808.245.
- b) The output generated by use of such equipment or such a program must display all data used in each degree of hazard prediction, together with the source of the data.

**Section 808.302 Data Base and Bioassay Procedures**

- a) This Section governs the data base and bioassay procedures which may be employed to assess the physical, chemical and toxicological properties of waste constituents.
- b) The data base, and any bioassay procedure utilized pursuant to Section 808.245(a), shall consist of and use data and procedures which the Agency determines are a reliable basis for decision. Reliability of a source of data and procedures shall be assessed by reference to such factors as, but not limited to, scientific validity; consistency with directly observable data, including monitoring data; and the consistency of results of repeated applications of the data, procedures and formulae. Sources of data may include, but are not limited to, the following:
  - 1) Standard reference sources;
  - 2) Material published or incorporated by reference by a federal regulation or by a regulation adopted by an agency of the State of Illinois;
  - 3) The application under consideration and written communications between the applicant and the Agency or their representatives with respect to the application;
  - 4) Data and procedures previously used by the Agency in other wastestream categorization determinations; or
  - 5) Agency inspection, permitting and enforcement files relating to the generator or the wastestream, excluding complaint forms (except where the complainant will be available voluntarily for deposition

and examination under oath at any hearing on appeal pursuant to Subpart G).

- c) The Agency shall make available for inspection and copying by the public a list of the sources of data and bioassay procedures which it has previously utilized for purposes of this Section, excluding any data described in subsection (b)(3) of this Section that is protected from public disclosure pursuant to Sections 7 or 7.1 of the Act or pursuant to 35 Ill. Adm. Code 101 or 120.

## **SUBPART D: REQUEST FOR WASTE CLASSIFICATION**

### **Section 808.400 Introduction**

- a) This Subpart specifies the procedures which shall be used to obtain a waste classification from the Agency.
- b) A waste classification may be requested by generators of special waste, as specified in Subpart A.

### **Section 808.401 Application Forms**

Persons applying for a waste classification shall use application forms provided or approved by the Agency.

### **Section 808.402 Application for Waste Classification**

An application for waste classification shall, at a minimum, include the following information:

- a) Basic information:
  - 1) The name, address and phone number of the original generator;
  - 2) The original generator's United States Environmental Protection Agency (USEPA) identification number (35 Ill. Adm. Code 722.122) and the Agency identification number, if the original generator has obtained either;
  - 3) The name and address of any treater of the waste;
  - 4) Any treater's USEPA identification number and Agency site number, if the treater has obtained either;

- 5) Whether any treater has a RCRA permit or interim status;
- 6) A chemical and physical analysis of the waste as specified in Section 808.410;
- 7) A wastestream description, as specified in Section 808.413;
- 8) A quality assurance plan, as specified in Section 808.420;
- 9) A description of any current waste storage, treatment and disposal processes applicable to the wastestream;
- 10) Identification of the disposal site or sites to which the applicant proposes to send the waste, and the proposed modes of transportation;

BOARD NOTE: This information is requested to assist the Agency in reviewing the application. These rules do not preclude use of a disposal site which is not identified in the application for classification; and

- 11) Wastestream number of any supplemental wastestream permit issued for the waste pursuant to 35 Ill. Adm. Code 807.210, and the expiration date of any such permit.
- b) The rationale for requesting classification, including all relevant calculations and other bases for conclusions; (If Appendix B of this Part has not been utilized for purposes of calculating the toxic score, such rationale shall indicate the reasons for using an alternative means of determining the toxic score, including an explanation of whether the alternative means chosen is equivalent to Appendix B.)
  - c) Data establishing that the waste is not a hazardous waste pursuant to 35 Ill. Adm. Code 721;

BOARD NOTE: Wastestream categorization is not applicable to RCRA hazardous wastes. If the generator anticipates that this will be an issue, the generator should include documentation supporting the claim that the waste is not a hazardous waste pursuant to 35 Ill. Adm. Code 721.

- d) Data bearing on whether the waste is a special handling waste, including the physical form of the waste and the mode of containment, if any, during transport;

- e) Whether the waste can be categorized by source, pursuant to Section 808.243, or by characteristic, pursuant to Section 808.244;
- f) Sufficient physical, chemical and toxicological data to assign a degree of hazard pursuant to Section 808.430;
- g) If necessary, results of toxicological testing, as specified in Section 808.431;
- h) Such additional information as the generator believes is appropriate to show that the waste should be classified as the generator requests; and
- i) Such additional information as the Agency determines is necessary to assign the waste to a class. The Agency may specify additional information by a request directed to the individual applicant.

**Section 808.410 Physical and Chemical Analyses**

Physical and chemical analyses of wastes for purposes of this Subpart shall be conducted as follows:

- a) Samples must be representative of the wastestream and shall:
  - 1) Include all waste phases;
  - 2) Be taken from areas distributed spatially within the waste bulk; and
  - 3) Be taken at suitable time intervals and over a sufficient period of time to account for variation in the wastestream through work shifts, seasons, etc.
- b) The following properties shall be determined and reported:
  - 1) The physical description of the wastestream, including, but not limited to, its temperature, color, phase and flow rate;
  - 2) The pH of aqueous phases of the waste, or the pH of a 1:1 volume dilution of solid phases of the waste with distilled and buffered water;
  - 3) The flashpoint of liquid phases by the Pennsky-Martens Closed Cup test method, specified in ASTM Standard D-93-79 or D-93-80, incorporated by reference at Section 808.111, or by a Setaflash Closed Cup tester, using the test method specified in ASTM standard D-3828-78, incorporated by reference at Section 808.111;



- 4) Results of an EP toxicity test, as specified in 35 Ill. Adm. Code 721.124; and
  - 5) Density.
- c) The waste shall be analyzed for its constituents as follows;
- 1) The analysis must include all materials introduced into each process generating the wastestream, and all materials which come into contact with products and materials produced by the process or in storage, including end products and impurities;
  - 2) The analysis must include all constituents which will react with each other under the process conditions;
  - 3) If available, the analysis must use the Chemical Abstracts Service (CAS) name and number for each constituent, or a name from the list of common names pursuant to Section 808.412. Otherwise, if the CAS name and number and such a common name is not available for the constituent, the person requesting classification shall provide a name and complete description of the constituent;
  - 4) The analysis shall include a list of major constituents and concentrations which accounts for at least 99% percent of the mass of the waste. The list may include an entry for "other" or "unknown" if the significant trace constituents have been identified as provided in subsection (c)(5). The analysis shall list major constituents of the waste rounded to the nearest tenth of a percent, and shall be supported by a mass balance;
  - 5) Significant trace constituents. The generator shall include a list and the concentration of all significant trace constituents, as defined in Section 808.411; and
  - 6) The analysis shall identify all major constituents and significant trace constituents listed in 35 Ill. Adm. Code 721.Appendix H.
- d) The analysis must report the average concentration or mass percentage and the expected range of each major constituent and significant trace constituent. The expected range is the 95% percent confidence intervals for each set of analyses for the constituent. The error analysis must take into account the following:
- 1) Temporal variation in the wastestream properties;

- 2) Uncertainties arising from sampling the waste; and
- 3) Uncertainties arising from the method of analysis.

#### **Section 808.411 Significant Trace Constituents**

A significant trace constituent is a constituent revealed by analysis:

- a) Which is present at a mass concentration of less than 1 percent; and
- b) Which has a toxicity, BiTi, as determined in Appendix B, of less than 500 mg/l.

#### **Section 808.412 Common Names**

The Agency shall utilize common names, together with a description of each, for constituents not amenable to chemical nomenclature.

BOARD NOTE: The purpose of this provision is to promote greater consistency in the naming of constituents. The Agency may use this mechanism to assign common names to constituents. Such names might include: Sand, water, wood, foodstuff, etc. In addition, this mechanism can be used to assign a name and toxicological properties to complex mixtures after these have been determined for a wastestream or a type of waste-generating process.

#### **Section 808.413 Wastestream Description**

- a) The wastestream description must include the following:
  - 1) The name of the generator, if other than the original generator, identified in the application for waste classification pursuant to Section 808.402(a)(1);
  - 2) The name of the wastestream, as assigned by the Agency pursuant to Section 808.412, or as assigned by the generator, if no name has been assigned by the Agency;
  - 3) A general description of the activity, production process or treatment process which gives rise to the waste;
  - 4) A general description of the physical and chemical properties of the wastestream; including its anticipated annual volume.

BOARD NOTE: This description may be summary and narrative; detailed description of physical and chemical properties of the wastestream is governed by Section 808.410.

- b) The wastestream description may include a description of a range of physical and chemical properties of the wastestream, based on physical and chemical analysis pursuant to Section 808.410, that are associated with periodic, occasional or anticipated changes in the process which produces the waste (e.g., changes in materials used as coatings, bonding agents or solvents).

BOARD NOTE: The wastestream description differs from the waste analysis required pursuant to Section 808.410. The wastestream description should describe the waste which the applicant wishes to have classified, which may not be exactly what the applicant presently produces. The waste which is subjected to analysis must fit within the wastestream description, but need not be identical to all variations of it. To avoid having to necessarily repeat the waste classification process, the applicant should request classification of a broadly-defined and characterized wastestream, so as to cover any periodic, occasional or anticipated modification to the waste properties. However, this will tend to increase the degree of hazard ranking of the wastestream.

### **Section 808.420 Quality Assurance Plan**

A quality assurance plan shall detail steps which the generator will take to ensure that the waste conforms with the wastestream description.

- a) The plan must include employee orientation measures, such as the following:
  - 1) Assignment of responsibility for assuring compliance;
  - 2) Employee training;
  - 3) Work rules;
  - 4) Posting of signs; and
  - 5) Positioning of waste receptacles.
- b) The plan must include periodic and random inspection, sampling and analysis of the wastestream to ensure that it conforms with the wastestream description. The plan must be designed so that there is at least a 95 percent probability that loads meet the wastestream description.

The plan may specify measures to be taken to account for variables in the properties by the wastestream, so as to prevent false negatives.

BOARD NOTE: The applicant should use statistical quality control to devise a plan with an inspection schedule which meets the above standard based on the properties and variability of the wastestream.

- c) The plan may provide for inspection, sampling and analysis by the permitted facility which receives the waste. If so, the plan must include a written agreement by the receiving facility that explicitly details what actions the receiving facility will undertake to fulfill the requirements of this Section.

BOARD NOTE: The permitted facility is required by permit and 35 Ill. Adm. Code 811 to inspect, sample and analyze the wastes it receives. This is distinct from similar activities undertaken by contract on behalf of the generator pursuant to this Section.

#### **Section 808.430 Degree of Hazard Data**

- a) The applicant shall submit its degree of hazard prediction, including the estimated toxic score and the information or data used to calculate the prediction, with the application.

BOARD NOTE: The applicant may include the results of a degree of hazard prediction performed by a computer program.

- b) The Agency may request additional data, if necessary to assign the waste to a class and the application contains inadequate information to determine the degree of hazard of the waste.

BOARD NOTE: If the Agency requests data, the request may include a computer-generated result of an attempt to perform the degree of hazard prediction, together with a specific request for needed data.

- c) Degree of hazard data shall include sufficient information to classify the waste pursuant to Section 808.245. In addition to the information normally obtained by the physical and chemical analysis required by Section 808.410, the degree of hazard data shall include, but not be limited to, the following with respect to each constituent:

- 1) Toxicity;
- 2) n-Octanol/water partition coefficient;

- 3) Persistence, measured as the half-life in days; and
- 4) Solubility in water, in parts per million on a weight basis.

**Section 808.431 Toxicological Testing**

- a) Except as otherwise authorized by Section 808.245(a), the Agency shall request that the applicant perform toxicological testing of components or of the waste pursuant to Appendix B of this Part, if a toxic score determination is necessary to assign the waste to a class and there is inadequate information in the Agency's data base to determine the toxic score.
- b) The applicant shall elect to include the results of toxicological testing of either the components of the waste or the waste itself.
- c) Testing required under subsection (a) shall be to determine an LD<sub>50</sub>-oral rat. The Agency shall approve alternative toxicological testing if the applicant demonstrates that an LD<sub>50</sub> - oral rat cannot be measured or is otherwise inappropriate. The applicant shall document the relation of the alternative test to an LD<sub>50</sub> - oral rat.

**SUBPART E: REVIEW OF CLASSIFICATION REQUESTS**

**Section 808.501 Order of Requesting Information**

- a) If possible, the Agency shall categorize the wastestream without requesting or using degree of hazard data pursuant to Section 808.430. However, nothing herein shall preclude the Agency from requesting or using degree of hazard data to confirm the characteristics of the waste.

BOARD NOTE: For example, if the waste is a categorical waste, it should be assigned to the type for that category without resort to degree of hazard data.

- b) If, after requesting and receiving degree of hazard data pursuant to Section 808.430, the Agency still cannot determine the degree of hazard, the Agency shall request toxicological testing pursuant to Section 808.431.

**Section 808.502 Completeness**

- a) An incomplete application is one which, together with the Agency's database, has insufficient information to classify the waste.

- b) If the Agency determines that an application is incomplete, it shall classify the waste as a Class A special waste, unless the Agency determines, based on such information as is available, that the waste is a RCRA hazardous waste pursuant to 35 Ill. Adm. Code 721.

## **SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS**

### **Section 808.520 Time for Agency Action**

- a) The Agency shall issue a wastestream classification determination within 60 days after the date of receipt of complete application.
- b) The applicant may waive the time for Agency action.
- c) As provided in Section 22.9(e) of the Act, IF THE AGENCY DENIES A REQUEST OR FAILS TO ACT WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST, THE APPLICANT MAY SEEK REVIEW BEFORE THE BOARD PURSUANT TO SECTION 40 OF THE ACT AS IF THE AGENCY HAD DENIED AN APPLICATION FOR A PERMIT.

### **Section 808.521 Conditions of Wastestream Classification**

The Agency shall include the following conditions in each wastestream classification determination:

- a) Wastestream description;
- b) Wastestream identification number assigned to the specific determination;
- c) Classification of the special waste;
- d) Limitations on the management of the waste, consistent with this Part, and 35 Ill. Adm. Code 809;
- e) A quality assurance plan;
- f) The expiration date, if any; and
- g) Such additional conditions as the Agency determines are necessary to assure that waste managed pursuant to the classification determination is of the class specified.

**Section 808.522 Final Agency Action**

Final Agency action shall consist of a final determination of a wastestream classification request. The Agency takes final action on the date the wastestream classification determination is mailed to the applicant.

**SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT**

**Section 808.541 Request for Modification**

If the application is a request for modification of a previous final wastestream determination, the applicant shall continue to manage waste pursuant to the old determination until it receives a final disposition of its request for a new determination.

**Section 808.542 Appeal**

- a) Within 35 days after the Agency's final action, the applicant may appeal a wastestream classification determination to the Board. Appeals under this Section shall be subject to the requirements of 35 Ill. Adm. Code 105.
- b) The record before the Board consists of the data base which was considered by the Agency at the time the Agency took final action. The applicant may supplement the record before the Board only under one or more of the following conditions:

- 1) If the applicant attempted to submit the information into the data base before the Agency prior to filing its appeal to the Board; or

BOARD NOTE: This provision is intended to prevent the use of appeals to challenge the validity of degree of hazard data through the introduction of new information without the Agency having the opportunity to reconsider its determination based on that new information.

- 2) If the data base filed by the Agency is not complete with respect to materials identified in Section 808.302(b)(3).

**Section 808.543 Effect of Classification**

A wastestream classification provides the generator with a determination necessary to obtain a wastestream identification number or to modify a supplemental wastestream permit. A wastestream identification number and a supplemental wastestream permit are necessary for completion of manifests and reports required by this Part and 35 Ill. Adm. Code 809 and 807. The wastestream classification authorizes the generator, hauler and

permitted facility to transport and manage waste meeting the wastestream description in accordance with regulations governing the transportation and management of special waste of the class provided in the classification determination.

#### **Section 808.544 Enforcement**

Any person may bring an action pursuant to Title VIII of the Act and 35 Ill. Adm. Code 103 to seek enforcement of the provisions of this Part. Penalties may be assessed upon a finding of violation, as provided in Title XII of the Act. Sanctions may include revocation of a wastestream classification determination.

#### **Section 808.545 Modification**

- a) A generator who has received a wastestream classification may request modification at any time by filing a new application. The generator shall file a new application whenever the waste it produces no longer meets the wastestream description.
- b) The Agency shall modify a wastestream classification whenever necessary to reflect amendments, repeals, or additions to the Act or 35 Ill. Adm. Code: Chapter I. The Agency shall give the generator at least 30 days prior written notice before it modifies a wastestream classification.

### **SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES**

#### **Section 808.600 Introduction**

- a) This Subpart defines "categories of wastes" by the type of source or generator producing the waste, by the process from which the waste arises, or by name. This Subpart also defines categories of wastes as "characteristics wastes," based on physical or chemical properties.
- b) Categorical and characteristic special (non-RCRA) wastes are assigned to a category defined under this Subpart based on the similarity of the physical, chemical or biological properties of the wastes to those properties designated as representative of that category, regardless of the degree of hazard of the individual wastes or wastestreams.

#### **Section 808.Appendix A Assignment of Special Waste to Classes**

#### **Section 808.Appendix B Toxicity Hazard**



This Appendix describes the method by which a generator of special waste or the waste source shall determine the toxic score for a waste.

- a) The wastestream equivalent toxic concentration ( $C_{eq}$ ) is calculated as follows:

$$C_{eq} = A * \text{SUM}(C_i / B_i * T_i)$$

where:

- 1) SUM means the sum of the results of the calculation in parentheses for each component of the wastestream;
- 2)  $C_i$  is the concentration of component  $i$  as a percent of the waste by weight;
- 3)  $T_i$  is a measure of the toxicity of component  $i$ , as provided in subsection (h);
- 4)  $A$  is a constant equal to 300; and

BOARD NOTE:  $A$  is a constant used to allow the entry of percent values for  $C_i$ , and to adjust the results so that a reference material, 100 percent copper sulfate, with an oral toxicity of 300 mg/kg, achieves an equivalent toxic concentration of 100.

- 5)  $B_i$  is a conversion factor used to convert the toxicity of component  $i$  ( $T_i$ ) to an equivalent oral toxicity.  $B_i$  is determined from subsection (i).

- b) The toxic amount ( $M$ ) is calculated as follows:

$$M = S * C_{eq}$$

where:

- 1)  $S$  is the maximum size of a wastestream shipment in kg/month (Such maximum size shall be specified as a condition of the wastestream classification.); and
- 2)  $C_{eq}$  is the equivalent concentration from subsection (a).

- c) The toxic score is calculated as follows:

- 1) If the toxic amount ( $M$ ) is less than 100, the toxic score is 0.

- 2) If the toxic amount is greater than or equal to 100 and less than 1000, the toxic score is 1.
- 3) If the toxic amount is greater than or equal to 1000 and less than 10,000, the toxic score is 2.
- 4) If the toxic amount is greater than or equal to 10,000, the toxic score is 3.

BOARD NOTE: 100 kg/month of the reference material, 100 percent copper sulfate, has a "toxic amount" of 10,000, defining the borderline between a "toxic score" of 2 or 3 for a small quantity generator.

- d) The toxic score shall be used as follows:
  - 1) If the toxic score is 0 or 3, the toxic score shall be used for the purposes of Section 808.245 without adjustment.
  - 2) If the toxic score is 1 or 2, the toxic score shall be adjusted based on environmental fate, pursuant to subsections (e), (f) and (g).
- e) The environmental fate score (F) is calculated as follows:

$$F = \text{SUM}(C_i * L_i)$$

where:

- 1) SUM means the sum of the results of the calculation in parentheses for each component of the wastestream;
  - 2)  $C_i$  is the concentration of component  $i$  as a percent of the waste by weight; and
  - 3)  $L_i$  is the environmental level of component  $i$ , as determined by subsection (j).
- f) The toxic score is adjusted as follows:
    - 1) If the environmental fate score (F) is less than 100, subtract 1 from the toxic score;
    - 2) If the environmental fate score is greater than or equal to 100 and less than 200, the toxic score is not modified;

- 3) If the environmental fate score is greater than or equal to 200, add 1 to the toxic score.
- g) Use the toxic score or adjusted toxic score calculated pursuant to subsections (b) through (f) for the purposes of Section 808.245.
  - h) Sources of toxicity data.
    - 1) The generator is required to provide information to substantiate that any waste is other than a type A waste.
    - 2) Carcinogens and mutagens. If available, use a TD<sub>50</sub> oral rat to represent toxicity based on carcinogenicity and mutagenicity. Otherwise:
      - A) Carcinogens are assigned a Ti of 0.1 mg/kg; and
      - B) Mutagens are assigned a Ti of 0.6 mg/kg.
    - 3) Toxicity values shall be selected according to the following criteria:
      - A) Toxicities are converted to equivalent oral toxicities as specified in subsection (i);
      - B) Toxicity values are ranked by source according to the following priorities, with the sources listed in descending order of priority:
        - i) First oral rat, then inhalation rat, then dermal rabbit, then aquatic toxicity.
        - ii) If data from these bases is unavailable, then other mammalian toxicity values;
      - C) If there is more than one toxicity value for the toxicity from the highest priority available source, the lowest (most toxic) equivalent oral toxicity value is used.
  - i) Conversion factors for equivalent oral toxicities. The following conversion factors must be used to convert toxicity values to equivalent oral toxicities (Bi) (If a carcinogen or mutagen is assigned a value for Ti in the absence of a TD<sub>50</sub>, Bi is assigned a value of 1.):

Toxicity measure	Units	Bi
Oral - LD <sub>50</sub>	mg/kg	1.
Carcinogen/mutagen – TD <sub>50</sub>	mg/kg	1.
Aquatic - 48 or 96 hour LC <sub>50</sub>	ppm	5.
Inhalation - LC <sub>50</sub>	mg/l	25.
Dermal - LD <sub>50</sub>	mg/kg	0.25

- j) Environmental levels. If the waste constituent is innocuous, the environmental level (Li) is equal to 0. Otherwise, Li for a component is the highest level for that constituent in the following table, based on bioaccumulation, persistence and solubility. (If a value on the boundary between ranges, the higher value of Li is used.):

Bioaccumulation		Persistence		Solubility		Li
Min.	Max.	Min.	Max.	Min.	Max.	
5	---	365	---	10,000	---	3
4	5	30	365	1000	10,000	2
0	4	0	30	0	1000	1

- 1) "Innocuous" waste constituents are those for which BiTi, as determined pursuant to subsection (a), is greater than 5000 mg/kg.
  - 2) Bioaccumulation is measured as the logarithm to the base 10 of the n-octanol/water partition coefficient for the waste constituent, as measured pursuant to ASTM E 1147, incorporated by reference in Section 808.111.
  - 3) Persistence is determined pursuant to subsection (k).
  - 4) Solubility is measured as parts per million on a weight basis. Solubility may be measured pursuant to ASTM E 1148, incorporated by reference in Section 808.111.
- k) Persistence. If available, a value for persistence, measured pursuant to subsection (k)(1), must be used. Otherwise, the table of subsection (k)(2) must be used.

- 1) Persistence must be measured pursuant to ASTM E 896, incorporated by reference in Section 808.111.
- 2) Persistence may be estimated using the following table (The longest half-life indicated must be used for constituents which fit into more than one category.):

Type of Compound or Material	Half Life (days)
Metal, metal oxide or inorganic oxide	366
Inorganic salts	366
Asbestos	366
Clay	366
Plastics or polymers	366
Pesticides	366
Halogenated hydrocarbons	366
Polyaromatic hydrocarbons and biphenyls	366
Phthalate esters	366
Paper products	366
Fats, oils and greases	366
Resins and pigments	366
Aromatic and alicyclic hydrocarbons	31
Aliphatic hydrocarbons	
More than 10 carbons	31
10 carbons or less	1
Waste constituents not otherwise listed	366