

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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|------------------------------|---|--------|
| In the Matter of |) | |
| |) | |
| PROPOSED AMENDMENTS TO |) | |
| SPECIAL WASTE REGULATIONS |) | R06-20 |
| CONCERNING USED OIL, |) | |
| 35. Ill. Adm. Code, 808, 809 |) | |
| |) | |

NOTICE OF FILING

To: ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on May 16, 2006 we filed the attached **PRE-FILED TESTIMONY OF MIKE LENZ** with Dorothy Gunn, Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

NORA, AN ASSOCIATION OF RESPONSIBLE
RECYCLERS

By: //Claire A. Manning
Claire A. Manning, one of its attorneys

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **PRE-FILED TESTIMONY OF MIKE LENZ** was filed, electronically, with the Clerk of the Illinois Pollution Control Board, and with copies of such rule proposal being placed in the U.S. mail on May 16, 2006 and addressed to:

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PRE-FILED TESTIMONY OF MIKE LENZ

My name is Mike Lenz. I have been involved in the used oil industry, in one form or another. my entire life. My father owns a small used oil recycling company in Illinois. Currently, I am a consultant for Future Environmental, a used oil transporting and marketing company which does business in Illinois, Iowa, Indiana and Michigan. As a consultant, I handle most of Future's compliance issues.

Future Environmental is a member of NORA. Personally, I have been involved with NORA since its beginning, in 1985. I've served on the Board of Directors and co-chaired the Government Affairs Committee, which deals with government regulation of the used oil industry

Future's customers are facilities which generate used oil and can be anything from a home to a service station, car dealer, or factory. I estimate that Future has approximately 10,000 generator customers in Illinois alone. Future also markets to end users, those facilities that utilize the used oil. I estimate that Future has at least 50 end user customers, 15 of whom are in Illinois.

I wish to thank the Board for the opportunity to appear before it in support of the proposed rule changes offered by NORA and conceptually supported by the Illinois

Environmental Protection Agency. The changes would eliminate the need to comply with special waste manifesting and hauling permitting for used oil that is managed in accordance with Part 739. Mandating compliance with special waste manifesting and permit hauling for used oil, which is managed under Illinois Administrative Code Part 739, is overly burdensome and, for no good reason, creates and requires compliance with two separate tracking systems.

The cost of manifesting is two-fold: one is the direct individual cost of the manifest itself and the mailing costs. The other cost is associated with time. The time it takes for a generator, recycler, driver, and office personnel to deal with paperwork requirements for special waste manifesting for used oil is incredible. While manifesting is technically the generator's responsibility, in the used oil industry the reality is that the generator is not prepared to furnish and properly fill out the manifest. It has been a responsibility taken on, then, by the recycler. We estimate it takes about two minutes of an employee's time to fully handle a manifest from start to finish. This translates to over six hours a day of our employee's time. Also, the IEPA charges \$3.00 per manifest. We estimate that the daily manifest purchase costs necessary to comply with the IEPA's interpretation that Part 808 and 809 manifesting applies to the used oil industry is approximately \$600 per day of operation. A driver can make up to 10 -20 pickups a day from generators. The IEPA interprets the current Part 808 and 809 rules to require 10 - 20 individual manifests to be filled out – one at each stop. Any given day in Illinois, Future alone has 20 drivers. Since the office personnel is supposed to handle and mail a copy of the manifest back to the generator, that's 600 manifests and mailings our office person deals with everyday.

This paperwork is on top of a system that already requires tracking of all collections and transport of used oil, pursuant to the federal program and Illinois Administrative Code Part 739. In other words, Part 739 requires tracking so any material managed as used oil under that part

must be tracked in accordance with that part. Each company develops their own system of tracking, that best fits their business, but all of them that I know are well aware of, and comply with, the tracking requirements of Part 739. Most states follow only the federal program, and require tracking pursuant to that program, and do not require special waste tracking – as does Illinois.

NORA assists members in developing tracking programs which comply with the federal regulations. As an example of how this tracking works, let me explain the following. Future has an individual pick up ticket that it receives at each generating source of the used oil. The ticket will reflect the address of the source, the company or other name of the source, and it will bear the signature of the person or company who generated the used oil, along with the date of the pick-up. A pick-up log is created as well, and the driver logs every pick up from every generator on the pick up log. There is a load form for each truck, and the pick up tickets are attached for each pick-up. The forms also designate where the truck took the used oil. These documents are all retained at our offices.

The paperwork requirements of Part 739, as I explained, are completely protective as they tell where every batch was picked up from and require tracking by us as to where that oil is going to. In many ways Part 739 is even more protective than special waste manifesting, because Part 739 requires tracking from the source to the end user, where manifesting only tracks it from the generator to the recycler. While the federal requirements (and corresponding Part 739) are generally complete when a recycler certifies that the oil is "on spec", even then he has to have documentation showing where it goes from there.

There is simply no reason to require manifesting for used oil under Part 808 and 809 – for materials that are handled pursuant to Part 739. This is especially true since special waste manifests are not even tracked by the IEPA.

For similar reasons, the used hauling permit requirements of Part 739 are also redundant. As a company, we fully expect to have a state used oil identifying number, but there is absolutely no reason to have hauling permits for each separate vehicle – and we believe that the Agency is in agreement on this point. Due to this extra cost for vehicle and even each semi trailer, our annual special waste hauling permit costs are over \$1,400.

Following are other examples of how, in the used oil industry, the Part 808 and 809 regulations conflict with the policies and provisions of Part 739:

- To properly fill out the special waste manifest a generator needs a generator or ID number from the state. Often we get a call from a panicking generator, sometimes an individual residence or farm, with an overflowing container of used oil. We dispatch a truck to the site for pickup and often find out that generator doesn't have a number. Legally, we cannot pick up the oil until they get one. This encourages improper storage or potential disposal of used oil and is inconsistent with federal policy and rules.
- Also, mobile sites have been a problem. Normally, with a larger construction site, maintenance of equipment can be done on site – usually just a field somewhere. In the case of road construction, these sites move to a new area once every so often. IEPA issued generator numbers are site-specific. Therefore, you can

understand problems we face in utilizing special waste manifests in these instances.

- Future Environmental as well as many other companies are using transfer facilities for transportation and consolidation of used oil prior to transferring to an end user or used oil processor. Under the special waste manifest requirements, the final processing marketing or burning facility must be listed as the destination on the original manifest. This is inconsistent with used oil transport and processing, however, because the end point is not always known upon collection. For example, tests might be performed to analyze the oil collected in a single tank at a recycling transfer facility and the results of such analysis will often dictate where the oil needs to go. If the product is off-spec or has a high water content, it may need to go to used oil processor for further processing; if it tests on-spec and has less water content it can be marketed directly to an end user. Therefore, when oil is picked up from generator, the final destination for that oil is often unknown, making it next to impossible to accurately fill out the special waste manifest. Also, for business reasons, even where there is a defined end user, it is neither advantageous or necessary for the used oil transporter to be required to give that information to the generator.
- For a period of time, instead of required to-the-letter compliance with the special waste manifesting requirements for used oil (perhaps in recognition of the fact that the special waste requirements do not fit used oil transportation), the IEPA allowed the used oil industry in Illinois to utilize what we called a "multi-stop" procedure. While this procedure allowed us to fill out a manifest for each load,

not each generator, there were major problems with this procedure. In effect, the used oil recycler was listed as the generator. For various reasons, the IEPA has stopped allowing the use of this procedure, making this rulemaking all the more necessary.

The necessity for requiring special waste manifesting and hauling permits for used oil managed in accordance with the federal program is inconsistent with the way surrounding states handle compliance with the federal program and therefore creates burdens for doing business in Illinois. The neighboring states of Iowa and Indiana simply require adherence to the federal rules. While Michigan requires manifesting, the manifest requirement is per load, not per generator,

The federal program was developed because used oil has a great deal of value and, when handled as a commodity, in accordance with Part 739, it is not a waste. The federal regulations require tracking that adequately protects the environment and, in the event of a bad actor, allows the regulators to "track" the problem.

Again, I wish to thank the Board for allowing NORA the opportunity to present this rulemaking proposal. NORA has been seeking this change for many years and I am very hopeful that the day has come where Illinois recognizes that special waste manifesting and special hauling permits are not necessary for the transport of used oil which is governed by federal used oil rules, which have been adopted by the Pollution Control Board, as identical-in-substance state regulations, in Part 739. Thank you.

Respectfully submitted,

/s/Mike Lenz

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