

ILLINOIS POLLUTION CONTROL BOARD  
August 7, 2008

**RECEIVED**  
CLERK'S OFFICE

AUG 07 2008

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

IN THE MATTER OF: )  
)  
PROPOSED AMENDMENTS TO THE ) R06-20  
BOARD'S SPECIAL WASTE ) (Rulemaking - Land)  
REGULATIONS CONCERNING USED OIL, )  
35 ILL. ADM. CODE 808, 809 )

**NOTICE OF HEARING**

DATE, TIME, AND LOCATION:

WEDNESDAY, OCTOBER 1, 2008

10:30 AM  
Room 11-512 (Illinois Pollution Control Board Videoconference Room)  
James R. Thompson Center  
100 W. Randolph Street  
Chicago, Illinois

PURPOSE OF HEARINGS: Merit and Economic

ATTENDING BOARD MEMBER: Andrea S. Moore

HEARING OFFICER: Timothy J. Fox

**HEARING OFFICER ORDER**

This rulemaking proceeding originated with a proposal filed by NORA, An Association of Responsible Recyclers (NORA). On May 1, 2008, the Board adopted a first-notice opinion and order proposing amendments to the Board's special waste regulations (35 Ill. Adm. Code 808, 809). The proposed amendments were published in the *Illinois Register* on May 30, 2008. 32 Ill. Reg. 8085-8102.

In its first-notice opinion and order, the Board sought comment on whether to amend standards for the management of used oil at Part 739 of its regulations (35 Ill. Adm. Code 739) so that those standards would require in a single tracking document information satisfying the various informational requirements that may apply to shipments of used oil. Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808, 809, R06-20, slip op. at 1, 56 (May 1, 2008). In the event that any participant favored amending Part 739 in that manner, the Board sought comment in the form of regulatory language that might be proposed to effect such an amendment. *Id.*

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact John Therriault, Assistant Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601. at telephone number 312/814-6931, fax number 312/814-3669. or TDD number 312/814-6032. five days prior to the hearing.

On June 4, 2008, NORA filed a “Motion to Request Hearing Following First Notice” (Mot.). NORA’s motion stated that “[a] hearing will enable NORA to respond to the Board’s specific requests for comment by participants on whether to amend Part 739 and its request for comment in the form of regulatory language that might be proposed to effect such an amendment.” Mot. at 1-2. NORA also requested the scheduling of a pre-hearing conference. *Id.* at 2, citing 415 ILCS 5/27 (2006).

In an order dated July 10, 2008, the Board granted NORA’s motion for a hearing and directed the hearing officer to schedule a pre-hearing conference to address issues including, but not limited to, the date and location of the hearing and deadlines for pre-filed testimony and other filings. In an order dated July 17, 2008, the hearing officer scheduled a participants’ conference call on July 31, 2008. The order stated that the purpose of the call would be limited to having participants report on their availability for hearing and to scheduling a hearing and associated deadlines. The conference call took place as scheduled and included the hearing officer and two other participants: Mr. Christopher Harris on behalf of NORA and Ms. Stephanie Flowers on behalf of the Illinois Environmental Protection Agency (Agency). The date, time, and location indicated in this hearing notice reflect the agreement of the participants.

### **Pre-Filing Deadlines**

As noted above, the Board requested comment on whether to amend used oil regulations at Part 739 (35 Ill. Adm. Code 739) and, in the event that any participant favored amending Part 739, comment in the form of proposed regulatory language that might effect such an amendment. Proposed Amendments to the Board’s Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808, 809, R06-20, slip op. at 1, 56 (May 1, 2008). NORA’s motion referred to this request for comment in seeking an additional hearing.

Consequently, as discussed in the July 31, 2008 conference call, any participant who wishes to comment on whether to amend Part 739, or to propose language amending it, is directed to submit that comment to the Board as pre-filed testimony for the October 1, 2008 hearing. All pre-filed testimony and any related exhibits must be filed no later than Wednesday, September 17, 2008. The “mailbox rule” at 35 Ill. Adm. Code 101.300(b)(2) does not apply to the filing of this pre-filed testimony, and the Board’s Clerk must receive these documents before the close of business on that date. Although documents may be filed electronically through the Clerk’s Office On-Line (COOL) from the Board’s Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us), any electronic or approved fax filings must be received by the Clerk no later than 4:30 PM on September 17, 2008. Any questions about electronic filing through COOL should be directed to the Clerk’s Office at (312) 814-3629.

### **Order of Hearing**

The hearing officer presently intends to allow NORA as the proponent in this rulemaking to present the testimony of all of its witnesses before hearing the testimony of other participants who pre-file testimony. All pre-filed testimony will be entered into the record as if read. *See* 35 Ill. Adm. Code 102.424(f). A brief summary of testimony will be allowed if a witness wishes to provide one. Following any brief summaries, witnesses will respond to any questions based on

that testimony. Participants who do not pre-file testimony will be allowed to testify as time permits after the conclusion of pre-filed testimony and questions based upon it.

Any participant who wishes to offer a public comment at the hearing will be allowed to do so if time permits at the close of testimony and questions based upon it. As discussed during the July 31, 2008 conference call, deadlines for filing post-hearing comments and any response to them will be set at a later date. *See* 35 Ill. Adm. Code 102.108(b).

### **Hearing Room**

During the July 31, 2008, conference call, the Agency stated that it expects to have two or three persons participating in the hearing, and NORA stated that it expects to have 12 to 15 witnesses testifying. Because there were no other hearing rooms available on October 1, 2008, in the Thompson Center or Bilandic Building, the hearing will take place in the Board's videoconference room, which accommodates 25 persons. Any participant expecting to involve more persons in the hearing than indicated during the conference call is respectfully urged to contact the hearing officer so that any necessary arrangements can be made.

IT IS SO ORDERED.



---

Timothy J. Fox  
Hearing Officer  
Illinois Pollution Control Board  
100 W. Randolph St., Suite 11-500  
Chicago, Illinois 60601  
312-814-6085  
foxt@ipcb.state.il.us