

BEFORE THE 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 FILING

Dorothy Gunn, Clerk,  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
(ELECTRONIC FILING)

William Richardson, Chief Legal Counsel  
Office of Legal Counsel  
Illinois Dept. of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271

Matthew J. Dunn  
Environmental Bureau Chief  
Office of the Attorney General  
Environmental Bureau North  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602

Tim Fox, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St.  
Suite 11-500  
Chicago, Illinois 60601

Claire A. Manning  
Brown, Hay & Stephens, LLP  
700 First Mercantile Bank Building  
205 South Fifth St., P.O. Box 2459  
Springfield, Illinois 62705-2459

Deirdre K. Hirner, Executive Director  
Illinois Environmental Regulatory Group  
3150 Roland Avenue  
Springfield, Illinois 62703

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Stephanie Flowers

Stephanie Flowers  
Assistant Counsel  
Division of Legal Counsel

DATE: June 13, 2008  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

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COMMENTS OF THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA"), by and through one of its attorneys, Stephanie Flowers, and respectfully submits the following Comments in response to the request for public comment by the Illinois Pollution Control Board ("Board") in its order dated May 1, 2008 and in response to the Board's First Notice Proposal dated May 1, 2008.

In response to the Board's request for comments on amending the tracking requirements of 35 Ill. Adm. Code 739 ("Part 739") the Illinois EPA states the following:

1. The Illinois EPA objects to any change in the language of Part 739 that would make Part 739 less stringent than the federal regulations.
2. The Illinois EPA objects to any change in the manifesting procedures that would allow other non-hazardous special wastes to be added to used oil with the resulting mixture labeled and tracked as only used oil.

3. The current regulations require special wastes other than used oil to be managed at a permitted facility pursuant to 35 Ill. Admin. Code 807 ("Part 807"), whereas used oil may be managed at a registered non-permitted used oil facility in accordance with Part 739. Therefore, the Illinois EPA objects to any change in the language of Part 739 that would allow special waste other than used oil, including a mixture of used oil and other special waste, the receipt of which is subject to permitting under Part 807 to be managed at an un-permitted facility operating solely under the used oil regulations at Part 739.
  
4. Finally, the Illinois EPA questions the benefit of modifying the tracking requirements of Part 739. Because the tracking of special wastes other than used oil, including mixtures of used oil and other special waste, are subject to regulations other than Part 739 setting forth tracking requirements for these wastes in Part 739 is irrelevant. If the intent is to exempt any other special waste that is mixed with used oil from manifests then that issue must be addressed not only in Part 739 but in 35 Ill. Adm. Code 808, 809 ("Parts 808 and 809) which leads back to the argument already presented by the Illinois EPA that other special waste mixed with used oil should not be exempt from manifesting because such exemption will encourage mixtures. If the intent is to exempt all special waste from manifests then that issue must be addressed in Parts 808 and 809 and not in Part 739.

For the reasons stated above, and those presented throughout the course of this rulemaking, the Illinois EPA requests that the Board find that no amendments are needed

to Part 739 and no additional amendments are needed to Parts 808 and 809. Furthermore, the Illinois EPA supports the rules proposed by the Board in its First Notice Proposal dated May 1<sup>st</sup>, 2008 and requests that the Board proceed with adopting the rules.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: *Stephanie Flowers*

Stephanie Flowers  
Assistant Counsel  
Division of Legal Counsel

DATED: 6-13-08  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

STATE OF ILLINOIS )  
 )  
COUNTY OF SANGAMON )

**PROOF OF SERVICE**

I, the undersigned, on oath state that I have served the attached COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY upon the persons to whom they are directed, by placing a copy of each in an envelope addressed to:

Dorothy Gunn, Clerk,  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
(ELECTRONIC FILING)

William Richardson, Chief Legal Counsel  
Office of Legal Counsel  
Illinois Dept. of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271

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Deirdre K. Hirner, Executive Director  
Illinois Environmental Regulatory Group  
3150 Roland Avenue  
Springfield, Illinois 62703

and mailing it by First Class Mail from Springfield, Illinois on June 13, 2008, with sufficient postage affixed.

*Jara Gilmore*

SUBSCRIBED AND SWORN TO BEFORE ME  
This 13<sup>th</sup> day of June, 2008.

*Brenda Boehner*  
Notary Public

