

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATER OF:)
PROPOSED AMENDMENTS TO THE)
BOARD'S SPECIAL WASTE REGULATIONS) R06-20
CONCERNING USED OIL) (Rulemaking – Land)
35 ILL. ADM. CODE 808, 809)
)
SOUTHWEST OIL AND FUTURE)
ENVIRONMENTAL COMMENTS)
PRE-FILED TESTIMONY)

NOTICE OF FILING

Office of the Attorney General
69 West Washington Street, Suite 1800
Chicago, Illinois 60602

Mr. Matthew J. Dunn
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P. O. Box 19276
Springfield, Illinois 62794

Stephanie Flowers, Esquire
Brown, Hay and Stephens, L.L.P.
700 First Mercantile Bank Building
205 South Fifth Street
P. O. Box 2459
Springfield, Illinois 62705

Claire A. Manning, Esquire
Illinois Environmental Regulatory Group
215 East Adams Street
Springfield, Illinois 62701

Ms. Deirdre K. Hirner
Executive Director
Illinois Pollution Control Board
100 Randolph Street
Suite 11-500
Chicago, Illinois 60601

Ms. Dorothy Gunn
Clerk of Illinois Pollution Control
Board
100 Randolph Street Suite 11-500
Chicago, Illinois 60601

Tim Fox, Esquire
Hearing Officer
Illinois Pollution Control Board
100 Randolph Street
Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board NORA's Comments, a copy of which is herewith served upon you.

Christopher Harris

September 22, 2008

2001 South Tracy
Bozeman, Montana 59715
Telephone: (406) 586-9902

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PROPOSED AMENDMENTS TO THE
BOARD'S SPECIAL WASTE
REGULATIONS CONCERNING
USED OIL, 35 ILL. ADM. CODE 808, 809

PRE-FILED TESTIMONY OF VICTORIA CUSTER

I am Victoria M. Custer, Vice President for Southwest Oil, Inc. I thank the Illinois Pollution Control Board for hearing my testimony today. I am here to respond to the Illinois Pollution Control Board's suggestion in its May 1, Opinion and Order to develop the record in a way that supports adoption of a proposal similar to that sought by NORA while addressing the concerns of the Illinois Environmental Protection Agency.

I am a director on the board for NORA, an Association of Responsible Recyclers (formerly the National Oil Recyclers Association), a national trade association of recyclers with over 218 members whose recycling program includes education and participation in the development of sensible regulation of recycling at the federal, state and local levels. I chair the Illinois Working Group Committee which has been actively working on the elimination of the manifesting requirements for used oil in Illinois. Over two years ago we filed a rule proposal with the IPCB (Illinois Pollution Control Board) to amend the Illinois Used Oil Program to the equivalent of the federal program.

Founded in 1984, NORA was active in the development of the regulations promulgated by the USEPA that govern the handling and recycling of used oil. NORA members each year commit to the following Guiding Principles in the management of sound environmental policy, a high standard of integrity, continual improvement and the implementation of six principles in conducting business activities.

1. Make health, safety and environmental considerations a top priority in planning for all existing and new facilities, processes, products and services.
2. Commitment to comply with all applicable environmental laws and regulations.
3. Identify and implement, where practicable, pollution prevention measures, source reduction and waste minimization that are appropriate to the nature, scale and environmental impacts of our activities and service.
4. Participate with government and others in creating responsible laws, regulations and standards to safeguard our community, workplace and environment.
5. Communicate this commitment to responsible recycling and these guiding principles to employees, customers and community.
6. And continually seek opportunities to improve the principles and procedures of responsible recycling by sharing experiences with others and periodically reviewing overall environmental performance.

NORA's Illinois Working Group is a subgroup of the Used Oil Recycling Council and was created to seek revisions to the IPCB special waste regulations as they relate to the used oil recycling industry in Illinois. The Illinois Working Group's goal is to seek an Illinois program equivalent to the federal program and competing states to eliminate the burdensome special waste hauling and manifesting requirements imposed on used oil and used oil related materials to the generator, transporter, transfer facility and processor. The inconsistency adversely impacts NORA members as it is more onerous to do business in Illinois than in neighboring states.

The Illinois EPA's Used Oil Manifesting Program is a burden to the generators, transporters, transfer facilities, processors, marketers and end-users in our industry. You may ask how does it affects all these parties in the

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industry – the answer is simple economics and the domino effect of passing on the expense. NORA is seeking relief of the unreasonable, time consuming and expensive regulatory burden of additional documentation that is already addressed by the Federal Regulatory System ... it does not increase compliance with existing Federal Regulations – especially when the Illinois EPA does not receive, analyze or track manifests and their data.

I have been employed with Southwest Oil for over 33 years and I have witnessed this industry evolve and grow by supplying a valuable and cost effective alternative fuel source in a time when energy is a key factor in not only our day to day lives, but to businesses that struggle with the decisions of retaining employees versus paying for energy consumption. In 1984, used oil recycling was largely unregulated, but the adoption of comprehensive regulatory controls, strongly supported by NORA and its members, sharply reduced inferior management practices. Used oil has departed from a waste that the used oil industry paid a fee for removal, to a highly sought commodity -- a product with a genuine value.

A commodity bought and sold in commerce is by definition valuable and is therefore handled with greater care. One of the common aspects of used oil collection is water in varying degrees. Water lowers the BTU value and once it is settled out and removed, used oil has a significantly greater BTU value per gallon than costly fuel and natural gas. It would be a great injustice to dispose of this valuable resource just because it has some degree of water in it that only requires minor settling. Used oil fuel is a cost effective source of fuel that provides the end-user with a significant savings giving them the ability to have the extra funds to staff more employees and replace or add much needed equipment.

The regulations that the Illinois EPA has proposed to regulate used oil and compatible wastes under (mixtures that are considered used oil under the federal regulations), does not allow for any type of Illinois non-hazardous transfer facilities and processors to operate under just the used oil regulations.

The Illinois EPA has proposed to discontinue manifesting “defined” used oils – but would require a manifest for mixtures regulated as used oil and require those materials to go only to specially permitted facilities to handle such materials if based in Illinois. NORA proposes that all materials classified as used oil (under the Federal Regulations) would not need a manifest but all relevant information would be set forth in a tracking document (bill of lading) – following the tracking and retaining requirements of the USEPA Federal Regulation. Allowing the manifest exemption for used oil and used oil related materials provides consistency with out of state programs and gives Illinois based recycler the ability to fairly compete in their own state.

The requirement of specially permitted facilities to handle such materials if based in Illinois would put Illinois based recyclers at a severe disadvantage to their out of state competitors, who are not subject to this expensive requirement. The state of Indiana is a specific example of how Illinois' treatment of used oil is more regulatory burdensome. On January 20, 1988, Indiana's Solid Waste Management Board voted to repeal Indiana's Liquid Industrial Waste Hauler Rule effective March 6, 1988. The repeal ended the requirement to have a permit to haul liquid industrial waste in the State of Indiana and the associated monthly reporting requirement. The repeal did not affect hazardous waste transportation requirements. Following the federal program without the added burden of managing additional paperwork and the complexity of special permitted facilities eased the excessive redundant responsibilities excepted of employees and administrative staff.

The proposed language discourages recyclers from basing their business in Illinois. Illinois businesses will relocate to a state that addresses used oil recycling with the simplicity of the Federal Regulatory System. The lost of revenue to Illinois will only compound Illinois extreme financial problems and enrich another state's pockets. Generators in rural areas would lose service options and face increased costs for recycling.

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The language that the Illinois EPA proposes does not relieve the unreasonable and expensive burden, and would increase recycling costs to Illinois generators due to transportation costs for common and compatible wastes often mixed with used oil, including water.

The IPCB encouraged, and NORA openly discussed and attempted for a period of over two years to negotiate a proposed language that addressed the concerns of the Illinois Environmental Protection Agency. NORA entered into these discussions believing we were mainly dealing with a burdensome paperwork issue that now compels the members to believe that it will also be a permitting issue - with much more serious potential consequences for Illinois based recyclers and generators. Why can't we be like other states?

Southwest Oil, Inc. supports regulations of used oil and related materials that are consistent with federal standards promulgated by the US Environmental Protection Agency. To the extent that the proposed amendment to the Illinois Environmental Protection Agency's special waste rules would make the state's regulations consistent with USEPA regulations. NORA's language will relieve the industry and Illinois generators of a state specific administrative burden, without compromising human health or the environment. Southwest Oil, Inc. supports and endorses NORA's proposed language.

In closing, I thank you for your time and considering NORA's language and my testimony.

Victoria M. Custer
Vice President, Sales & Marketing
Southwest Oil, Inc.

September 22, 2008