

PC# 117

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MAY 17 2010

**Comments of NORA, An Association of Responsible Recyclers
Concerning the Response of the Illinois Environmental Protection Agency
Submitted on May 13, 2010**

STATE OF ILLINOIS
Pollution Control Board

NORA, An Association of Responsible Recyclers ("NORA") hereby submits the following comments concerning the response of the Illinois Environmental Protection Agency ("IEPA") submitted on April 13, 2010. Although NORA is reluctant to prolong the debate on issues in this rule-making that have been addressed repeatedly, we cannot ignore certain assertions of the Agency that are either irrelevant or incorrect or both.

IEPA asserts that the wastewater definition proposed by the Board "will make it difficult to track waste streams that have been combined with used oil" and that without a certification by the generator "any waste mixed with used oil and sent to a used oil recycler will be "untraceable." These assertions not only lack support, they are beyond the scope of the instant rule-making. IEPA appears to intentionally overlook the basic premise of the rule that the Board has already adopted, namely, that the same information that formerly was to be set forth in a manifest will be presented in a tracking document (also referred to as a shipping paper). There is absolutely nothing about a tracking document that makes the material described therein in "untraceable." It should be emphasized that IEPA fails to explain why the material would be "traceable" if the information is set forth in a manifest but "untraceable" if the same information is set forth in a tracking document.

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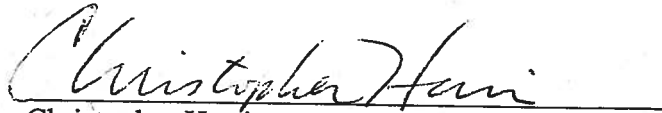
IEPA also asserts "As currently proposed by the Board, a generator would be able to mix almost any waste with used oil. The mixture would then be picked up and co-mingled with other oil containing waste where it will lose its original characteristics. At this point it would be impossible to tell which co-mingled waste stream did not meet the requirements of the manifest exemption." Two responses address IEPA's assertion. First, NORA members are recyclers whose task is to collect used oil from generators and process it into fuel products. The products are purchased by customers who always have a choice of purchasing fuel derived from virgin petroleum products. Consequently, used oil collectors and processors have absolutely no motivation whatsoever to mix (or encourage generators to mix) used oil with any material where the resulting mixture would lose the "original characteristics" of oil. Second, there is nothing about the tracking document that would inspire such behavior. Again, the relevant information that would be contained in a manifest is also set forth in the tracking document. Thus, if information about a "co-mingled waste stream" is required to be documented in a manifest it will also be required to be documented in a tracking document. IEPA has not, because it cannot, point to any portion of the Board's rule (or proposed definitions) that would create an information deficit or regulatory loophole.

With respect to the Agency's last minute proposal for generator certifications, nothing in the Board's rule (or its proposed definitions) would modify substantive generator obligations. There is no repeal or modification of Section 722.140(c) or Section 722.111 - or any other substantive requirement. If the Agency desires to expand the existing obligations imposed on generators or impose new additional rules on

generators, it is free to make such a proposal. However, the instant rule-making concerning definitions is not the appropriate venue for any such proposal.

Accordingly, because there is no "loop-hole" being created by the Board's proposed definitions, including its definition of wastewater, there is no reason to change the Board's proposal.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christopher Harris". The signature is written in black ink and is positioned above a horizontal line.

Christopher Harris

General Counsel

NORA, An Association of Responsible Recyclers

May 13, 2010

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Bozeman, Montana 59715

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED AMENDMENTS TO THE)
SPECIAL WASTE REGULATIONS) R06-20 Docket B
CONCERNING USED OIL) Rulemaking - Land
35 ILL. ADM. CODE, PARTS 739, 808, 809)

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Pollution Control Board

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CERTIFICATE OF SERVICE

I, CHRISTOPHER HARRIS, an attorney, hereby certify that I filed with the Office of the Clerk of the Illinois Pollution Control Board the following documents:

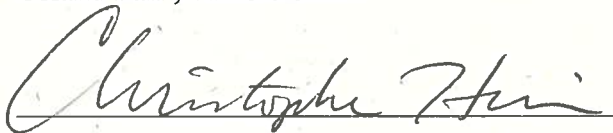
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and will cause the same to be served upon the following persons by sending it via first class mail, United States Postal Service on May 13, 2010.

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May 13, 2010