

# ILLINOIS POLLUTION CONTROL BOARD

February 22, 2006

**RECEIVED**  
CLERK'S OFFICE

FEB 27 2006

STATE OF ILLINOIS  
Pollution Control Board

Jack Lavin, Director  
Department of Commerce and Economic Opportunity  
620 East Adams Street, S-6  
Springfield, Illinois 62704

Re: Request for Economic Impact Study for: **Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil, 35 Ill. Adm. Code 808, 809 (R06-20)**

Dear Director Lavin:

The Pollution Control Board (Board) has received a rulemaking proposal on December 13, 2005, from NORA, which states that it is an association of responsible recyclers formerly known as the National Oil Recycling Association. The proposal seeks to amend Parts 808 and 809 of the Board's regulations concerning special waste classifications and nonhazardous special waste hauling as they pertain to used oil recycling in Illinois.

In its proposal, NORA stated that the federal government in 1985 and 1992 promulgated rules governing management and transportation of used oil. NORA further stated that the Board adopted those rules in 1993 as Part 739 of its regulations through "identical in substance" rulemaking. *see* 35 Ill. Adm. Code 739; R93-4, RCRA Update, USEPA Regulations, July 1, 1992 through December 31, 1992, (Sept. 23, 1993). According to NORA, "most states have adopted the federal used oil recycling rules . . . as the sole regulatory requirements governing the management of used oil," and Part 739 should reflect 40 C.F.R. 279. However, because Illinois had adopted special waste rules before Part 739, NORA argued that state regulations are not genuinely "identical in substance" to the federal rules. Specifically, NORA stated that, by treating used oil as a special waste, Illinois requires actions such as manifesting used oil during transportation that are not required by federal regulations. In this rulemaking, NORA is proposing that the Board eliminate the special waste hauling and manifesting requirements for used oil.

I am writing to request that you determine whether your Department will conduct an economic impact study concerning this proposal.

Since 1998, Section 27 (b) of the Environmental Protection Act has required the Board to:

## GOVERNOR

Rod R. Blagojevich

## CHAIRMAN

G. Tanner Girard, Ph.D.

## SPRINGFIELD OFFICE

1021 North Grand Ave. East  
P.O. Box 19274  
Springfield, IL  
62794-9274  
217-524-8500  
FAX 217-524-8508

## CHICAGO OFFICE

James R. Thompson Center  
100 West Randolph  
Suite E1-500  
Chicago, IL 60601  
312-814-3620  
FAX 312-814-3669  
TYM 312-814-6032

## WEB SITE

[www.ipcb.state.il.us](http://www.ipcb.state.il.us)



PRINTED ON RECYCLED PAPER

1) "request that the Department of Commerce and Economic Opportunity (formerly the Department of Commerce and Community Affairs) conduct a study of the economic impact of the proposed rules. The Department may within 30 to 45 days of such request produce a study of the economic impact of the proposed rules. At a minimum, the economic impact study shall address a) economic, environmental, and public health benefits that may be achieved through compliance with the proposed rules, b) the effects of the proposed rules on employment levels, commercial productivity, the economic growth of small businesses with 100 or less employees, and the State's overall economy, and c) the cost per unit of pollution reduced and the variability of company revenues expected to be used to implement the proposed rules; and

(2) conduct at least one public hearing on the economic impact of those rules. At least 20 days before the hearing, the Board shall notify the public of the hearing and make the economic impact study, or the Department of Commerce and Economic Opportunity's explanation for not producing an economic impact study, available to the public. Such public hearing may be held simultaneously or as a part of any Board hearing considering such new rules." 415 ILCS 5/27(b) (2004).

The Board is currently in the process of scheduling hearings in this matter. I would greatly appreciate a response from you concerning DCEO's position on whether it will perform the economic impact study. If I, or my staff, can provide you with any additional information, please let me know. While the Board can proceed to hold hearings while awaiting your decision, the Environmental Protection Act does not allow the Board to complete its rulemaking process without your Department's input.

Thank you for your early response.

Sincerely,



G. Tanner Girard  
Acting Chairman, Pollution Control Board

Cc: Dorothy M. Gunn, Clerk  
Erin Conley, Rules Coordinator