



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

APR 29 2010

LR-8J

John T. Therriault, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, Illinois 60601

PC# 116

RECEIVED  
CLERK'S OFFICE  
APR 30 2010  
STATE OF ILLINOIS  
Pollution Control Board

Re: Docket R06-20

Dear Mr. Therriault:

This letter concerns the change proposed for Standards for the Management of Used Oil found at Title 35 of the Illinois Administrative Code, Part 739. Part 739 is a federally authorized rule pursuant to Section 3006(h) of the Resource Conservation and Recovery Act, as amended (RCRA). Since 1992, I have been the RCRA Used Oil Expert for EPA Region 5 which comprises Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio. In my experience, there is widespread misunderstanding of how RCRA regulates "used oil" and wastewater. Wastewater is subject to applicable RCRA Subtitle C waste regulations for solid and hazardous waste before it is discharged pursuant to a Clean Water Act permit. Used oil that is recycled is subject to 40 CFR Part 279 Used Oil Management Standards. When wastewater that is being managed for disposal is intentionally mixed with used oil, regulators should consider whether the used oil is being managed as a valuable resource or commodity for recycling. Under RCRA, used oil recycling includes burning for energy recovery and re-refining.

Allowing used oil and nonhazardous waste mixtures (e.g., wastewater) to be regulated as used oil under 40 CFR Part 279 potentially poses threats to human health and the environment. Although the wastewater as generated may not exhibit a characteristic of hazardous waste, the oily waste that is generated during wastewater treatment may exhibit a characteristic due to concentration of the contaminant by treatment. "Used oil" as defined in 40 CFR 279.1 and 40 CFR 260.10 is exempt from the 40 CFR 261.24 Toxicity characteristic rule. Used oil continues to be an attractive media for toxic contaminants not typically picked up through lubricant use but which may be contained in wastewaters. EPA has enforced the hazardous waste identification rules<sup>1</sup> at facilities subject to 40 CFR 437 Clean Water Act regulations for Centralized Waste Treatment Point Source Category standards, and which are also regulated as RCRA used

<sup>1</sup> 40 CFR 261.3 and 40 CFR 279.10(b) (40 CFR 266.40(c), 1985-1992)

oil processor facilities, and required compliance with the standards for owners and operators of hazardous waste treatment, storage, and disposal facilities in 40 CFR Parts 264/265.

By allowing mixtures of used oil with nonhazardous solid wastes (wastewater) to benefit from the exemption to special waste manifest requirements, does the current rulemaking encourage mixture of used oil with wastewater containing toxic contaminants that are not controlled by the used oil fuel specifications for arsenic, cadmium, chromium, lead, total halogens, and flashpoint? If yes, then I am opposed to it. Illinois EPA is commended for trying to discourage such mixtures.

If you have any questions about this letter, please contact me by telephone at (312) 353-6134, by facsimile at (312) 408-2231, or by E-mail at [brauer.sue@epa.gov](mailto:brauer.sue@epa.gov).

Sincerely,

A handwritten signature in cursive script that reads "Sue Rodenbeck Brauer".

Sue Rodenbeck Brauer  
Region 5 RCRA Used Oil Expert  
RCRA Branch  
Land and Chemicals Division