

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUL 07 2011

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO)
TIERED APPROACH TO CORRECTIVE)
ACTION OBJECTIVES)
(35 Ill. Adm. Code 742))
)

R11-9
(Rulemaking-Land)

Pct#1

NOTICE

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

Mitchell Cohen
Chief Legal Counsel
Illinois Dept. of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271
(Via First Class Mail)

ORIGINAL

Matt Dunn
Environmental Enforcement/Asbestos
Litigation Division
Illinois Attorney General's Office
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
(Via First Class Mail)

Richard McGill
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
(Via First Class Mail)

Participants on the Service List
(Via First Class Mail)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Illinois Environmental Protection Agency's ("Illinois EPA") Pre-First Notice Comments a copy of each of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: *Kimberly A. Geving*
Kimberly A. Geving
Assistant Counsel
Division of Legal Counsel

DATE: July 5, 2011

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

(217) 782-5544

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
PROPOSED AMENDMENTS TO)
TIERED APPROACH TO CORRECTIVE)
ACTION OBJECTIVES)
(35 Ill. Adm. Code 742))
)

R11-9
(Rulemaking-Land)

RECEIVED
CLERK'S OFFICE

JUL 07 2011

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS EPA'S PRE-FIRST NOTICE COMMENTS

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, Kimberly A. Geving, and pursuant to 35 Ill. Adm. Code 102.108, respectfully submits these PRE-FIRST NOTICE COMMENTS in the above-captioned matter to the Illinois Pollution Control Board ("Board").

It is the Illinois EPA's contention that the proposed amendments filed in this matter with the Board on November 5, 2010, and the corresponding Errata Sheets 1 through 3 filed subsequent to the initial proposal, constitute technically feasible, economically reasonable, and well-supported amendments to Part 742. The Illinois EPA believes that the Board should adopt the proposed amendments in their entirety as submitted by the Illinois EPA, including changes proposed in Errata Sheets 1 through 3.

On November 5, 2010, the Illinois EPA filed its proposed amendments in the above-captioned matter to incorporate changes to the rules that are designed to improve and update particular aspects of the Tiered Approach to Corrective Action Objectives ("TACO") methodology. Specifically, Illinois EPA proposes to add a new pathway to address indoor inhalation concerns.

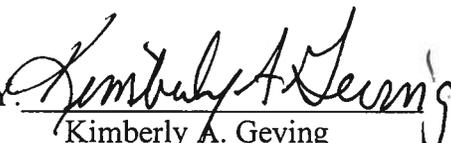
As is typically the case when the Illinois EPA proposes amendments to its rules, we had several outreach meetings with the regulated community during the development of the

proposed amendments. The Illinois EPA believes that the regulated community's comments and concerns were incorporated into the proposed amendments that the Board received last November and were further refined through the three Errata Sheets filed with the Board during the regulatory process. The Illinois EPA believes that there are no significant unresolved issues and that the proposed amendments are scientifically sound and serve the public by protecting human health and the environment.

In conclusion, the Illinois EPA believes that its position on matters raised in this proceeding is well established by the testimony of its witnesses.

WHEREFORE, the Illinois EPA submits its Pre-First Notice Comments for the Board's consideration and respectfully requests that the Board accept the proposal in its entirety and move the proposal to First Notice as quickly as possible given that Illinois EPA's cleanup programs (Site Remediation Program, Leaking Underground Storage Tank Program, and RCRA Corrective Action Program) rely on Part 742 to develop site remediation objectives and determine health protectiveness.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: 
Kimberly A. Geving
Assistant Counsel
Division of Legal Counsel

Dated: July 5, 2011

1021 N. Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

RECEIVED
CLERK'S OFFICE
JUL 07 2011
STATE OF ILLINOIS
Pollution Control Board

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Pre-First Notice
Comments 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

Mitchell Cohen
Chief Legal Counsel
Illinois Dept. of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

ORIGINAL

Matt Dunn
Environmental Enforcement/Asbestos
Litigation Division
Illinois Attorney General's Office
69 W. Washington St., 18th Floor
100 W. Randolph, 12th Floor
Chicago, Illinois 60602

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

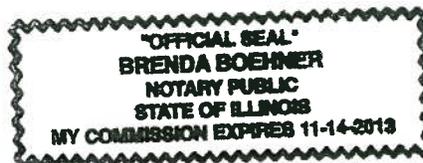
Participants on the Service List

and mailing them (First Class Mail) from Springfield, Illinois on July 5, 2011, with
sufficient postage affixed as indicated above.



SUBSCRIBED AND SWORN TO BEFORE ME
This 5th day of July, 2011.


Notary Public



		2011, MAILBOX-RULE DOES NOT APPLY; prefiling deadlines for second hearing may be set later	
12/7/2010	DCEO / Sec. of State	*Letter from DCEO stating they are unable to undertake an economic impact study	
12/1/2010	Other	*Letter to Director Ribley of DCEO Requesting Economic Impact Study	
12/1/2010	Motion	Agency's Motion for Leave from Filing Requirement	
11/22/2010	Other	*Electronic version of Proposed Amendments submitted by the IEPA (see Clerk's Office)	
11/18/2010	Order	Order of the Board by T. E. Johnson: Accept rulemaking proposal for hearing	
11/18/2010	Appearance	Appearance of Alec M. Davis for Illinois Environmental Regulatory Group (electronic filing)	
11/9/2010	Initial Filing	Proposed Amendments (< 4MB, 172 Pages)	
11/9/2010	Initial Filing	Motion for Acceptance; Appearance of Kimberly A. Geving; Certification of Origination; Statement of Reasons; and List of Studies and Reports Used in Regulatory Development	

Service List

<u>Party Name</u>	<u>Address</u>	<u>City/State/Zip</u>	<u>Phone/Fax</u>
IEPA Petitioner <ul style="list-style-type: none"> Kimberly A. Geving - Assistant Counsel 	1021 North Grand Avenue East P.O. Box 19276	Springfield IL 62794-9276	217/782-5544 217/782-9807
Hodge Dwyer & Driver Complainant <ul style="list-style-type: none"> Katherine D. Hodge 	3150 Roland Avenue Post Office Box 5776	Springfield IL 62705-5776	217/523-4900 217/523-4948

<ul style="list-style-type: none"> • Monica T. Rios 			
<u>Mayer, Brown LLP</u> Interested Party <ul style="list-style-type: none"> • Kevin G. Desharnais 	71 South Wacker Drive	Chicago IL 60606-4637	312/782-0600 312/701-7711
<u>Sidley Austin LLP</u> Interested Party <ul style="list-style-type: none"> • William G. Dickett 	One South Dearborn Suite 900	Chicago IL 60603	312/853-7000 312/853-7036
<u>EPI</u> Interested Party <ul style="list-style-type: none"> • Bob Mankowski 	16650 South Canal	South Holland IL 60473	
<u>Illinois Environmental Regulatory Group</u> Interested Party <ul style="list-style-type: none"> • Alec M. Davis 	215 East Adams Street	Springfield IL 62701	217/522-5512 217/522-5518
<u>Chemical Industry Council of Illinois</u> Interested Party <ul style="list-style-type: none"> • Lisa Frede 	1400 East Touhy Avenue Suite 110	DesPlaines IL 60019-3338	
<u>Bellande & Sargis Law Group, LLP</u> Interested Party <ul style="list-style-type: none"> • Mark Robert Sargis 	19 South LaSalle Street Suite 1203	Chicago IL 60603	312/853-8701 312/853-8702
<u>Hanson Engineers, Inc.</u> Interested Party <ul style="list-style-type: none"> • Tracy Lundein 	1525 South Sixth Street	Springfield IL 62703-2886	217/788-2450 217/788-2503
<u>Conestoga-Rovers & Associates</u> Interested Party <ul style="list-style-type: none"> • Douglas G. Soutter 	8615 West Bryn Mawr Avenue	Chicago IL 60631	773/380-9933 773/380-6421
<u>Office of the Attorney General</u> Interested Party <ul style="list-style-type: none"> • Matthew J. Dunn - Division Chief 	Environmental Bureau 69 W. Washington, 18th Floor	Chicago IL 60602	312/814-0660 312/814-2347
<u>Seyfarth Shaw</u> Interested Party <ul style="list-style-type: none"> • Craig B. Simonsen - Paralegal • Phil Comella 	131 South Dearborn Street Suite 2400	Chicago IL 60603-5803	312/460-5000 312/460-7000
<u>Navy Facilities and Engineering Command</u> Interested Party	201 Decatur Avenue Building 1A	Great Lakes IL 60088-2801	847/688-2600 847/688-2319

<ul style="list-style-type: none"> • Mark Schultz - Regional Environmental Coordinator 			
<u>Illinois Pollution Control Board</u> Interested Party <ul style="list-style-type: none"> • - Clerk of the Board • Richard McGill - Hearing Officer 	100 W. Randolph St. Suite 11-500	Chicago IL 60601	312/814-3620 312/814-3669
<u>Commonwealth Edison</u> Interested Party <ul style="list-style-type: none"> • Diane H. Richardson 	10 South Dearborn Street 35FNW	Chicago IL 60603	
<u>Weaver Boos & Gordon</u> Interested Party <ul style="list-style-type: none"> • Elizabeth Steinhour 	2021 Timberbrook Lane	Springfield IL 62702	
<u>Andrews Environmental Engineering</u> Interested Party <ul style="list-style-type: none"> • Kenneth W. Liss 	3300 Ginger Creek Drive	Springfield IL 62711	
<u>Missman Stanley & Associates</u> Interested Party <ul style="list-style-type: none"> • John W. Hochwarter • Jeffrey Larson 	333 East State Street	Rockford IL 61110-0827	
<u>Trivedi Associates, Inc.</u> Interested Party <ul style="list-style-type: none"> • Chetan Trivedi 	2055 Steeplebrook Court	Naperville IL 60565	
<u>Illinois Department of Natural Resources</u> Interested Party <ul style="list-style-type: none"> • Stan Yonkauski • Mitchell Cohen - General Counsel 	One Natural Resources Way	Springfield IL 62702-1271	217/782-1809 217/524-9640
<u>Suburban Laboratories, Inc.</u> Interested Party <ul style="list-style-type: none"> • Jarrett Thomas - V.P. 	4140 Litt Drive	Hillside IL 60162	708-544-3260
<u>Illinois Department of Transportation</u> Interested Party <ul style="list-style-type: none"> • Steven Gobelman 	2300 S. Dirksen Parkway Room 302	Springfield IL 62764	

McGuire Woods LLP Interested Party	77 W. Wacker Suite 4100	Chicago IL 60601	312/849- 8100
<ul style="list-style-type: none"> • David Rieser 			
Reott Law Offices, LLC Interested Party	35 East Wacker Drive Suite 650	Chicago IL 60601	312/332- 7544
<ul style="list-style-type: none"> • Raymond T. Reott • Jorge T. Mihalopoulos 			
Environmental Management & Technologies, Inc. Interested Party	3010 Gill Street	Bloomington IL 61704	309/661- 2300 309661- 2306
<ul style="list-style-type: none"> • Craig Gocker - President 			
Chicago Department of Law Interested Party	30 N. LaSalle Street Suite 900	Chicago IL 60602	312/742- 3990 312/744- 6798
<ul style="list-style-type: none"> • Charles A. King - Assistant Corporation Counsel 			
SRAC Interested Party	2510 Brooks Drive	Decatur IL 62521	
<ul style="list-style-type: none"> • Harry Walton 			
Burns & McDonnell Engineering Company, Inc. Interested Party	210 South Clark Street, Suite 2235 The Clark Adams Building	Chicago IL 60603	6306751625
<ul style="list-style-type: none"> • Lawrence L. Fieber - Principal 			
Total number of participants: 28			

Notice List			
Party Name	Address	City/State/Zip	Phone/Fax
Drinker Biddle & Reath Interested Party	191 N. Wacker Drive Suite 3700	Chicago IL 60606-1698	312/569/1000 312/569-3000
<ul style="list-style-type: none"> • Sheila H. Deely • Stephanie Jackson 			
Jones, Day, Reavis & Pogue Interested Party	77 West Wacker Drive	Chicago IL 60601-1692	312/782-3939 312/782-8585
<ul style="list-style-type: none"> • LaNail C. Griffin 			
Illinois Power Company Interested Party	500 South 27th Street P.O. Box 511	Decatur IL 62525-1805	217/424-6833
<ul style="list-style-type: none"> • Brian Martin 			