

ILLINOIS POLLUTION CONTROL BOARD  
April 9, 2001

IN THE MATTER OF: )  
)  
AMENDMENTS TO LIVESTOCK WASTE ) R01-28  
REGULATIONS ) (Rulemaking-Land)  
(35 ILL. ADM. CODE 506) )

HEARING OFFICER ORDER

At the hearing held on April 2, 2001, the Board heard the justification and explanation of this rulemaking proposal by the Illinois Department of Agriculture (Department). The Board prepared a list of questions for the Department regarding its proposal. The Department did not have an opportunity to review these questions in advance, and accordingly, requested additional time to review and respond to the Board's questions. The questions are attached to this hearing officer order.

The Department is directed to respond to the Board's questions by April 23, 2001. The Department's response may be in the form of written comment or prefiled testimony. The Department shall serve its response to persons on the service list.

The hearing on April 30, 2001 will begin with the Department's summary of its response to the Board's questions, and any additional questions from the Board and the public. The Board will then hear testimony from other interested persons, as set forth in the hearing officer order issued on March 27, 2001.

IT IS SO ORDERED.

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Questions for the Department of Agriculture Concerning the Proposed Amendments to the  
Board's Livestock Waste Regulations  
(Docket R01-28)

Section 506.103 Definitions

Please explain the rationale for the proposed animal unit multiplication factor of 0.005 for laying hens or broilers. Clarify whether the multiplication factor was derived from an ASAE document.

Section 506.104 Incorporations by Reference

1. The American Public Health Association issued the 20<sup>th</sup> edition of the Standard methods in 1998. In light of this, Please comment on whether the incorporation by reference to "Standard Methods for the Examination of Water and Wastewater" needs to be updated to reflect the most recent edition.
2. Please clarify whether the publication date of the ASAE standard EP403.2 is 1998 or 1993.

Section 506.202 Site Investigation

1. While subsection (a)(2) requires the owner or operator to determine whether the proposed lagoon is located in within the floodway or flood fringe of 100-year floodplain, the rules do not prescribe any specific requirements as to how this determination must be made. Please comment on whether the rules should provide additional guidance regarding the determination required by subsection (a)(2).
2. According to subsection (f)(2), if a void of 1 foot or greater in vertical distance is discovered, the lagoon design plan must include, in addition to those set forth in Section 506.207, the other requirements deemed necessary by the Licensed Professional Engineer or the Department. Please describe the additional requirements that a lagoon design plan should typically include when voids are discovered in the proposed lagoon site.

Section 506.206 Groundwater Monitoring

While this Section references the requirements of 8 Ill. Adm. Code Subpart F, should the rule also cite to Section 900.511 of the Department's rules? That Section appears to contain additional groundwater monitoring requirements.

Another general question about the Department's rules pertains to Sections 900.511(a)(3)(D) and 900.611(f)(3) which state that the Department may require changes to the design, construction, or operation of the facility. As the Board is supposed to maintain the regulations

related to design and construction, would the Department please describe how these provisions of the rules will be used?

Section 506.207 Construction in a Karst Area

1. The proposed statutory provision at subsection (a) requires owners or operators to determine the possible presence or absence of karst areas. Please comment on whether the portion of subsection (a) pertaining to the determination of the presence of karst area should be included under the site investigation requirements of Section 506.202.
2. Please explain the rationale for requiring only a “portion” of the lagoon to meet design and construction standards instead of the whole lagoon under subsection (b).
3. Please comment on whether the Department is aware of any environmental problems associated with livestock waste handling facilities located in karst areas. In this regard please provide information as to how many of livestock waste handling facilities are located or proposed to be located in karst areas.
4. Please comment on whether the Department is aware any subsidence problems in karst areas that may require additional design requirements such as a foundation mass stability analysis to demonstrate that the material beneath the unit have sufficient strength to support the weight of the lagoon and livestock waste contained in the lagoon.

Section 506.208 Construction in a Flood Fringe Area

Subsection (a) requires lagoon berms to be designed and constructed to withstand hydrostatic pressures from flood waters. Please explain whether any of the technical standards proposed to be incorporated by reference at Section 506.104 address the issue of hydrostatic pressure. If so, would it be appropriate to include a reference to such a standard in subsection (a).

Section 506.210 Secondary Containment

Please explain for the record the meaning of “grass waterway,” “filter strip” and “terrace” and how they are used to contain release of livestock waste from a lagoon.

**SUBPART C: STANDARDS FOR THE DESIGN AND CONSTRUCTION OF LIVESTOCK  
WASTE HANDLING FACILITIES OTHER THAN LAGOONS**

Section 506.301 Applicability

For the purposes of the record, please provide examples of the types of structures that would be regulated under Subpart C.

Section 506.302 Site Investigation

1. Under subsection (b), please clarify whether the soil sampling is done using a soil boring. If so, would it be acceptable to the Department to replace “soil samples” with “soil boring”.
2. Please explain what “final livestock waste handling area” means in the context of soil sampling.
3. Please explain the rationale for allowing USDA-NRCS representative to perform the evaluation of the soil boring results under subsection (g)(4). Also, please comment on why a similar provision was not proposed under site investigation requirements for livestock waste lagoons at Section 506.202.

Section 506.303 Non-lagoon Livestock Waste Storage Volume Requirements

The ASAE standard EP393.2 which is incorporated by reference in Section 506.103 recommends a minimum storage capacity of 210 days in cold climate regions. Please comment on whether the Department considered the ASAE recommendation in proposing the minimum 150-day storage requirement at subsection (a).

Section 506.304 General Design and Construction Standards

1. Please explain for the record what were the concerns regarding the practicality of achieving a hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second with concrete.
2. Please explain the rationale for not specifying a setback distance for the location of livestock waste handling facility with respect to a potable water supply well. JCAR has asked “shouldn’t the minimum distance between a source of drinking water and potential contamination should be greater than the facility’s boundary and non-drinking water?”
3. Please clarify whether the additional technical standards listed under subsection (b) are all incorporated by reference in Section 506.103.