

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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5 IN THE MATTER OF:

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7 TIERED APPROACH TO CORRECTIVE No. R97-12(B)

8 ACTION OBJECTIVES: AMENDMENTS

9 TO 35 ILL. ADM. CODE 742.505 and
10 742.900

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14 Proceedings held on May 29th, 1997, at
15 10:00 a.m., at the Howlett Building, The Lincoln
16 Room, Third Floor, Springfield, Illinois, before
17 the Honorable Amy Muran Felton, Hearing Officer.

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1 I N D E X

2 WITNESS PAGE NUMBER

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6 James Patrick O'Brien 24

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P R O C E E D I N G S

(May 29, 1997; 10:00 a.m.)

HEARING OFFICER FELTON: Good morning.

My name is Amy Muran Felton. I am the named Hearing Officer in this proceeding entitled, In The Matter of: Tiered Approach to Corrective Action Objectives, 35 Illinois Administrative Code 742, Docket B.

I would like to welcome everybody to our second set of hearings in this matter. Present today on behalf of the Board, seated to my right, is Board Member Marili McFawn. Seated to my left is Board Member Joe Yi. Seated to Board Member Yi's left is Attorney Assistant, Chuck Feinen.

In the back please note that I have placed copies of the draft language as proposed by the Agency. This draft was prepared by the Board, but was approved by the Agency at the May 21st, 1997 hearing in Chicago, with the exception of some minor editorial changes. These minor editorial changes are reflected in the record from the May 21st, 1997 hearing. If you have any questions regarding those changes, please speak with either me or Kimberly Robinson from the Agency.

1 Also in the back are copies of the
2 Board's May the 1st, 1997 order and the Agency's
3 testimony. In the back I have also placed notice
4 lists and service list sign-up sheets. If your
5 name is not already on either of those lists,
6 please sign them. If you have any questions
7 regarding the purpose of those lists, please
8 contact me during one of our breaks or after this
9 hearing.

10 This hearing will be governed by the
11 Board's procedural rules for regulatory
12 proceedings. All information which is relevant and
13 not repetitious or privileged will be admitted.
14 All witnesses will be sworn and subject to cross
15 questioning.

16 This hearing will be continued on the
17 record to Friday, May 30th, 1997, at 10:00 a.m. at
18 this same location and time in Springfield, if
19 necessary, to accommodate the parties testimony and
20 any questions of either the Agency or any of the
21 parties.

22 This proposed rulemaking was filed on May
23 the 1st, 1997, and is intended to fulfill the
24 mandates of Title 17 of the Environmental

1 Protection Act. Title 17 was added to the Act by
2 Public Act 89-431, which was signed and became
3 effective on December 15th, 1995.

4 On September 16th, 1996, the Illinois
5 Environmental Protection Agency proposed a new Part
6 740 to the Board's rules, to create a Tiered
7 Approach to Establishing Corrective Action
8 Objectives, also known as TACO. On November 7,
9 1996, the Board adopted the TACO proposal for first
10 notice.

11 On April 17th, 1997, the Board adopted
12 the TACO proposal for second notice and
13 reclassified this proposal as R97-12, Docket A. On
14 April 17th, 1997, the Board proceeded the first
15 notice and opened Docket B to address the
16 additional language proposed by the Agency
17 regarding mixtures of similar-acting substances.

18 After proceeding to the first notice of
19 Docket B on April 17th, 1997, the Secretary of
20 State informed the Board that it could not publish
21 the proposed rules for first notice because these
22 amendments are proposed to amend rules in the new
23 Part 742 which has not yet been adopted as final.

24 Consequently, on May 1st, 1997, the Board

1 vacated its April 17th, 1997 order and opened a
2 proposed R97-12, Docket B, to address the
3 additional language proposed by the Agency
4 regarding the mixtures of similar-acting
5 substances. The Board's May 1st, 1997 order, in
6 effect, mirrors the Board's April 17th, 1997
7 order.

8 The purpose of today's hearing is to
9 allow any person which needs to testify either for
10 or in objection to the proposed rulemaking in
11 Docket B. After a party has an opportunity to
12 testify, questions of that party will be
13 entertained.

14 Procedurally, this is how we plan to
15 proceed today. I prefer that during the
16 questioning period all persons with questions raise
17 their hand and wait for me to acknowledge them.
18 When I acknowledge you, please state in a loud and
19 clear voice your name and the organization you
20 represent, if any. If you will be testifying
21 today, we ask that you please come up here and be
22 sworn in and take a seat here next to the court
23 reporter, just for purposes of consistency sake.

24 Are there any questions regarding

1 procedures, and how we plan to proceed at this
2 time?

3 All right. Seeing none, at this time I
4 would like to ask Board Member McFawn if there is
5 anything else she would like to add to my comments.

6 BOARD MEMBER McFAWN: Nothing more than
7 just to welcome you all to the hearing.

8 HEARING OFFICER FELTON: I would like to
9 ask Board Member Yi if he has any further comments.

10 BOARD MEMBER YI: Good morning.

11 HEARING OFFICER FELTON: Okay. At this
12 time, I would like to ask the Agency if they have
13 any comments regarding their testimony from May
14 21st regarding any additional testimony they would
15 like to present.

16 MS. ROBINSON: I believe there are going
17 to be some follow-up questions for Dr. Hornshaw, so
18 we would like to proceed with those as an opener.

19 HEARING OFFICER FELTON: Okay. Just one
20 second, please.

21 (Discussion off the record.)

22 HEARING OFFICER FELTON: Back on the
23 record.

24 Okay. We will proceed with Dr.

1 Hornshaw. At this time is there anyone who has any
2 questions for Dr. Hornshaw for the Agency?

3 MR. RIESER: From the Agency?

4 HEARING OFFICER FELTON: For the Agency.

5 MR. RIESER: Oh, for the Agency.

6 HEARING OFFICER FELTON: Yes.

7 MR. RIESER: Yes, I do. I am Dave Rieser
8 from Ross & Hardies on behalf of the Illinois
9 Petroleum Council.

10 Dr. Hornshaw, I asked you numerous
11 questions at the hearing last week, and I would
12 like to follow-up with some areas where I think
13 there has been some misunderstandings on some of
14 those questions, in order to clarify some of the
15 issues.

16 Focusing entirely on what has been
17 proposed as 805(E), I would like to ask you -- we
18 talked last week about how to reevaluate the
19 cumulative risk in this context. I would like to
20 ask you again to go through what methodologies the
21 Agency would use in evaluating how you would arrive
22 at a cumulative risk.

23 MR. HORNSHAW: I think I testified at the
24 last hearing that there are several ways that could

1 be used to evaluate whether the mixture of
2 similar-acting chemicals, the risk from them, does
3 not exceed 1 in 10,000, which is what is listed in
4 this Subsection D as the target or the ceiling not
5 to be exceeded, basically.

6 One of those approaches is to use the
7 same kind of approach that is in 805(c)(1) where we
8 would calculate a weighted average using the
9 concentration detected over an acceptable
10 concentration. In this case that acceptable
11 concentration could be the 1 in 10,000 risk level.

12 If you will look to that, you have CUO,
13 X, sub 1 as the acceptable concentration for
14 contaminate, X, sub 1, and you could simply figure
15 out what the 1 in 10,000 risk concentration is for
16 X, sub 1, and that would be the denominator in that
17 fraction that gets -- where the risk is summed.

18 Another approach would be to do a Tier 3
19 risk evaluation, look at the cumulative risk from
20 those chemicals in the context of a larger risk
21 assessment, identify what the cumulative risk is,
22 and if it is not greater than 1 in 10,000, then
23 that would be another way of showing that
24 Subsection D has been achieved.

1 Then a third way, which I don't think I
2 presented very clearly at the last hearing, would
3 be to simply look at the values that we have got in
4 new Appendix A, Table H.

5 MS. ROBINSON: Excuse me, Dr. Hornshaw,
6 if I could interrupt you. I think you are looking
7 at some documents. For purposes of clarifying the
8 record, could you state what you are looking at?

9 MR. HORNSHAW: This is the testimony that
10 I presented at that first hearing in this document.

11 MS. ROBINSON: Which was marked as
12 Exhibit 1 for identification; is that correct?

13 MR. HORNSHAW: Not mine, but that's what
14 you say.

15 MS. ROBINSON: The other document that
16 you were referring to?

17 MR. HORNSHAW: The other document I was
18 referring to is Draft of Agency Proposal R97-12,
19 Docket B. It was prepared by the Board.

20 MS. ROBINSON: Which was marked as
21 Exhibit 2?

22 MR. HORNSHAW: Yes, Exhibit 2.

23 MS. ROBINSON: Thank you.

24 MR. HORNSHAW: Going back to Exhibit 1,

1 in my testimony, a new Table H has been proposed to
2 address specifically which chemicals are subject to
3 this new Subpart D, and there are -- in this table
4 is the Class I Groundwater Remediation Objective,
5 the 1 in 1,000,000 Cancer Risk Concentration and
6 the Acceptable Detection Limit.

7 One could take the detected concentration
8 of whatever chemical is on this table and compare
9 it directly to the 1 in 1,000,000 cancer risk
10 concentration, determine what the cancer risk is
11 from the detected concentration by a simple ratio
12 of detected versus the 1 in 1,000,000 cancer risk
13 concentration, and you will have an estimate of
14 what the cancer risk is from each individual
15 component in the mix.

16 Then you just add those, and as long as
17 the risk doesn't exceed 100 in 1,000,000 or 1 in
18 10,000, then, again, you have shown that the
19 risk -- the cancer risk is acceptable and meets the
20 Subpart D requirements.

21 MR. RIESER: Okay. Let me walk through
22 the first and the third methodologies that you
23 indicated. I just want to make sure I understand
24 it.

1 The first methodology is using the same
2 type of added -- addition of ratios, if you will,
3 that is included in the 805(C), correct?

4 MR. HORNSHAW: Correct.

5 MR. RIESER: And in the denominator, you
6 would use a 1 times -- a Corrective Action
7 Objective that is based on a 1 times 10 to the
8 minus 4th target; is that correct?

9 MR. HORNSHAW: That's correct.

10 MR. RIESER: And how would you identify
11 that value?

12 MR. HORNSHAW: It would be 100 times the
13 1 in 1,000,000 cancer risk concentration that is
14 presented in the Appendix A, Table H.

15 MR. RIESER: Okay. And then when you
16 added up those ratios, the question would be is the
17 sum of those ratios greater than 1 and if it is,
18 then you have to do some further analysis, say, a
19 risk assessment, and if it is not then you would
20 not be concerned about cumulative risk; is that
21 correct?

22 MR. HORNSHAW: Yes, that's correct. You
23 would meet the requirements of this new proposed
24 Subpart D.

1 MR. RIESER: I think that was where the
2 source of my confusion, at least, was from last
3 week.

4 So in that formula that you just
5 described, you would not use -- in using that
6 formula to arrive at a -- to identify whether the
7 sum of the ratios was greater than 1, you wouldn't
8 use the ADL as the denominator or the 10th to the
9 minus 6th value in the denominator, you would use
10 the 10th to the minus 4th?

11 MR. HORNSHAW: In almost all cases there
12 would -- I think for the chemical Vinyl Chloride,
13 where the 1 in 10,000 risk level is still less than
14 the ADL, you would use the ADL.

15 MR. RIESER: You use the ADL?

16 MR. HORNSHAW: Yes. I am sorry. I take
17 that back. That's not true either.

18 That was true at the time the standard --
19 the drinking water standard for Vinyl Chloride was
20 issued. That's no longer true because analytical
21 methodologies have pushed the detection limit for
22 this chemical lower, so that is no longer a
23 problem.

24 MR. RIESER: Is the ADL that is stated in

1 the table -- the ADL that is stated in this table
2 is the regulatory value that you would be using in
3 that context?

4 MR. HORNSHAW: No.

5 MR. RIESER: What ADL would you use?

6 MR. HORNSHAW: The ADL is not an issue.
7 The only time the ADL becomes an issue is when the
8 target concentration is less than the ADL.

9 MR. RIESER: Right.

10 MR. HORNSHAW: Then the ADL gets
11 substituted for the target concentration, whichever
12 that -- you know, whether that is the 1 in
13 1,000,000 risk concentration or the standard or
14 whatever.

15 MR. RIESER: The ADL the people rely on
16 in making that comparison is the ADL that is stated
17 in the Board's rules?

18 MR. HORNSHAW: Yes.

19 MR. RIESER: Okay.

20 MR. HORNSHAW: I am not sure I followed
21 what you just said.

22 MR. RIESER: Well, just to finish up that
23 issue, if somebody is -- it has been testified in
24 prior hearings on Docket A that if you have a

1 remediation objective that is lower than the ADL
2 you look to the ADL?

3 MR. HORNSHAW: That's correct.

4 MR. RIESER: And the ADL that you look to
5 was the ADL that is stated in the Board's rules?

6 MR. HORNSHAW: That's correct.

7 MR. RIESER: In the 742 Rules?

8 MR. HORNSHAW: Yes.

9 MR. RIESER: Okay. So that even if there
10 are advances in science that people are aware of,
11 the ADL that you use for the purpose of the
12 compliance with the regulation is the one that the
13 State then uses?

14 MR. HORNSHAW: That's correct.

15 MR. RIESER: I just wanted to get that.
16 Okay.

17 With respect to the third methodology,
18 now you are talking about adding up the ratio of
19 the detected level to its 1 times 10 to the minus
20 6th value as stated in Table H; is that correct?

21 MR. HORNSHAW: That's correct.

22 MR. RIESER: Okay. And so that gives you
23 a ratio, you add that ratio, and then the sum of
24 all of them, the question is whether that sum is

1 above or below 1 times 10 to the minus 4th?

2 MR. HORNSHAW: That's correct.

3 MR. RIESER: Now, if it is in excess of 1
4 times 10 to the minus 4th, then you would be
5 looking at a Tier III -- you may be looking at a
6 Tier III response to that?

7 MR. HORNSHAW: That may be, or you may be
8 looking at doing some remedial work.

9 MR. RIESER: Okay. A Tier III would be
10 available to somebody --

11 MR. HORNSHAW: Yes, always.

12 MR. RIESER: -- on this program?

13 MR. HORNSHAW: Yes.

14 MR. RIESER: All right. Looking at what
15 has been proposed in Exhibit 2 as 805(c)(1), and
16 this is on page six of Exhibit 2, C -- there is an
17 explanation of the term CUO, sub X, sub A. Do you
18 see that?

19 MR. HORNSHAW: Yes.

20 MR. RIESER: And it says, A Tier I
21 remediation objective must be developed for each X,
22 sub A?

23 MR. HORNSHAW: Yes.

24 MR. RIESER: Would it be acceptable for

1 the Agency in this context to say a Tier I or a
2 Tier II remediation objective must be developed for
3 each --

4 MR. HORNSHAW: Yes, that would be
5 acceptable.

6 MS. ROBINSON: Could you state the reason
7 for that, Dr. Hornshaw?

8 MR. HORNSHAW: Yes. The reason -- we
9 intended that all along. We are already in Tier II
10 once we have gotten to 805, and so the remedial
11 applicant certainly has the option of developing a
12 Tier II groundwater remediation objective, and that
13 can also be used in this approach.

14 HEARING OFFICER FELTON: Mr. Rieser, any
15 additional comments or questions?

16 MR. RIESER: Just a minute, please.

17 HEARING OFFICER FELTON: Okay.

18 MR. RIESER: When you are doing all of
19 these, either the first or the second methodology
20 or any of these methods that you are talking about,
21 the things that you are adding up or considering
22 are the -- is the chemicals that affect the same
23 target organ based on -- the chemicals listed on
24 Table H affect the same target organ as described

1 on Table F?

2 MR. HORNSHAW: That's correct.

3 MR. RIESER: Okay. You are not talking
4 about the whole range of chemicals that you have
5 identified at the site, just those that affect the
6 same target organ?

7 MR. HORNSHAW: That's correct.

8 MR. RIESER: Looking at 805(C) again,
9 should a portion -- looking at what has been
10 proposed in Exhibit 2, on page five, two sentences
11 were deleted as part of the Agency's proposal. Is
12 the Agency considering a modification of what of
13 those should be deleted?

14 MR. HORNSHAW: Yes, the second sentence
15 that has been deleted should still be included in
16 this part in Subsection C. I testified to this
17 effect in the first hearing, that if a -- even
18 though a contaminate or a chemical of concern may
19 have met the Tier I objective, if that chemical of
20 concern affects the same target organ as one of the
21 chemicals that got pushed into this subpart, then
22 all of those chemicals need to be brought into this
23 Tier II evaluation. So that sentence should still
24 be there. The first sentence --

1 BOARD MEMBER McFAWN: Could you read that
2 sentence, for the record, please?

3 MR. HORNSHAW: Yes. The sentence that we
4 think should still be in Subsection C is,
5 "Contaminants of concern for which a Tier I
6 remediation objective has been developed shall be
7 included in any mixture of similar-acting
8 substances under consideration in Tier II."

9 The first sentence that was deleted is no
10 longer relevant and that should have been deleted,
11 but the second sentence should stay.

12 MR. RIESER: I think we talked last week,
13 just in the sense that we are in the language of
14 this particular section, that the Agency would have
15 no problem with an addition so that the first
16 sentence here regarding mixtures of similar-acting
17 chemicals which affect the same target organ, organ
18 system or similar mode of action shall be
19 considered?

20 MR. HORNSHAW: Yes.

21 MR. RIESER: Those are all of the
22 questions I had. I appreciate your taking the time
23 to resolve some of this confusion for us.

24 HEARING OFFICER FELTON: Thank you, Mr.

1 Rieser.

2 Does anyone else present today have any
3 questions for Dr. Hornshaw?

4 All right. I have one question.

5 MR. HORNSHAW: Okay.

6 HEARING OFFICER FELTON: How does the
7 Agency feel about adding a definition of
8 similar-acting chemicals? Something to the effect
9 of similar-acting chemicals means chemicals which
10 affect the same target organ, organ system or
11 similar mode of action. Similar-acting chemicals
12 with noncarcinogenic and carcinogenic affects are
13 listed in Table A, Table E and F, respectively.

14 MR. HORNSHAW: That seems appropriate.

15 HEARING OFFICER FELTON: Okay. Thank
16 you.

17 MS. WAGNER-ROSEN: Could I ask a
18 question?

19 HEARING OFFICER FELTON: Sure.

20 MS. WAGNER-ROSEN: Well, I don't know if
21 it is appropriate to question you. Just a moment,
22 please.

23 HEARING OFFICER FELTON: Okay.

24 MR. RIESER: If I can sort of question --

1 well, let me ask a question of Dr. Hornshaw, a
2 question of the validity of this definition.

3 The Agency's position on this is that the
4 universe of similar-acting chemicals are those that
5 are specifically listed on Table F; is that
6 correct?

7 BOARD MEMBER McFAWN: For the record, I
8 believe the definition proposed listed Tables E and
9 F of Appendix A.

10 MR. RIESER: Oh, E and F?

11 BOARD MEMBER McFAWN: Right.

12 MR. HORNSHAW: Yes, E and F, that's
13 correct.

14 MR. RIESER: So that those would not be
15 examples? Those would be -- the substances on
16 those tables would be the universal similar-acting
17 chemicals for the purposes of this rule?

18 MR. HORNSHAW: For this rule, that's
19 correct.

20 To make it even clearer, there may be
21 other chemicals that are not included in this rule
22 that would be at the beginning of a project anyway
23 by definition in Tier III, because there is -- they
24 are not here and they would have to be evaluated as

1 a different -- as a separate issue in Tier III. We
2 would look to what target organ that chemical
3 affected and if appropriate we would include it
4 within a mixture of chemicals already included in
5 the rule, too.

6 MR. RIESER: So these would be chemicals
7 that don't even appear on the general tables for
8 groundwater?

9 MR. HORNSHAW: That's correct. Chemicals
10 outside the scope of TACO at the beginning of a
11 project are by definition Tier III, and in
12 developing the toxicity criteria for those
13 chemicals so that the project couldn't proceed, we
14 would also look to the target that that chemical
15 affects in the body and if appropriate, we would
16 notify the remedial applicant that this chemical
17 belongs in the mixture with whatever other
18 chemicals are detected at that site so that the
19 mixture of similar-acting substances would be
20 complete for that project.

21 MR. RIESER: Thank you.

22 HEARING OFFICER FELTON: Any further
23 questions?

24 MR. FEINEN: I have a few questions.

1 HEARING OFFICER FELTON: Okay. Mr.
2 Feinen?

3 MR. FEINEN: Chuck Feinen with the Board.
4 Dr. Hornshaw, you stated that the ADL for
5 certain chemicals have changed. How often do ADLs
6 change?

7 MR. HORNSHAW: Could I defer that to Mr.
8 O'Brien? He is better at this than I am.

9 MS. ROBINSON: He would need to be sworn
10 in.

11 (Whereupon Mr. O'Brien was
12 sworn by the Notary Public.)

13 MR. O'BRIEN: For the record, my name is
14 James Patrick O'Brien. I am the Manager of the
15 Office of Chemical Safety with the Illinois
16 Environmental Protection Agency.

17 The ADLs essentially change irregularly.
18 It is primarily based upon U.S. EPA methods,
19 specifically SW846 methodology, and the U.S. EPA
20 publishes proposed changes in the Federal Register,
21 accepts comments, and then publishes a notice in
22 the Federal Register when changes are made to the
23 laboratory methodologies and the detection limits
24 in those methodologies.

1 In the past, those changes have occurred
2 about every four or five years. It kind of depends
3 upon the progress of analytical technology, and
4 they test out the methodologies through Round Robin
5 tests with various laboratories to make sure that
6 they are accurate, and before they propose them for
7 general usage.

8 MR. FEINEN: So at some point it is
9 possible for an ADL to drop below a Tier I number?
10 In other words, in the idea of using ADL as your
11 objective when you can't detect the generated
12 number, at some point that might not be true
13 anymore?

14 MR. O'BRIEN: That's correct. In that
15 case we would have to come back and propose to the
16 Board to make a change in this rule and in the
17 context that the ADLs are used.

18 MR. FEINEN: Right, because Part 742
19 establishes the ADLs as they are now and at some
20 point those will change?

21 MR. O'BRIEN: That's correct. So can the
22 toxicological perimeters, which the end points, the
23 toxicological end points, could change, too. So we
24 realize that it is -- that as changes occur, that

1 the Agency will have to come back and propose those
2 changes to the Board.

3 MR. FEINEN: I have another question, and
4 this is for Dr. Hornshaw. This is -- I drew the
5 short straw, and I have to ask a technical question
6 that was written by the technical unit, but I read
7 through it and let me see if I can relay it.

8 During the first rulemaking docket,
9 Docket A, in the Agency public comments they say
10 that mixtures of similar-acting substances in the
11 Class I groundwater must be addressed because, and
12 this is in quotations, "The Agency has taken the
13 position that Part 742 should rely on the State's
14 groundwater standard as closely as possible." I
15 think that was in public comment number 10, page
16 11.

17 This 35 Illinois Administrative Code
18 626.615 states that mixtures of similar-acting
19 chemicals must be addressed. The statute, which I
20 believe is 58.5, states that risk levels for
21 carcinogens can be within the range of 10 to the
22 minus 4th and 10 to the minus 6th, but did not
23 state a risk level for the range of
24 noncarcinogens.

1 So it was determined that the -- as long
2 as the range for carcinogens stayed between 10 to
3 the minus 4th and 10 to the minus 6th, the
4 cumulative affects is not a problem. However, when
5 you are talking about noncarcinogens which doesn't
6 have a range, doesn't have a 10 to the minus 4th
7 and doesn't have 10 to the minus 6th, has a hazard
8 quotient, the Board found that when you are
9 evaluating two contaminates of concern that are
10 similar-acting, two or more it could be, that the
11 value for the cumulative weighted average equation
12 could come out greater than that one hazard
13 quotient.

14 So when we adopted the Docket A we had
15 the groundwater cumulative effect for
16 noncarcinogens addressed, and we felt that was
17 based off the testimony and the findings of the
18 Agency. Now it sounds like what I think the Agency
19 is proposing is contrary to that.

20 I guess I want to know why did the Agency
21 decide that the only time you look at
22 noncarcinogens in groundwater is when there is one
23 of them being at the Tier I number or above, when
24 it doesn't necessarily have to have to be a Tier I

1 or above to add up to be above the hazard quotient
2 of one?

3 MR. HORNSHAW: I testified to this in the
4 first hearing on this docket. We came to the
5 conclusion that there is enough conservatism built
6 into the Tier I objective for the noncarcinogens
7 that -- and this is completely analogous to our
8 reasoning for putting off consideration of the
9 noncancer affects of chemicals in soil to Tier II
10 evaluation. The conservatism that is built into
11 the Tier I numbers for soil or groundwater is
12 appropriate enough that we don't think that there
13 is a concern for mixtures.

14 Once you have gotten into Tier II, where
15 you have lost some of that conservatism that is
16 built into the Tier I process, then we think it is
17 appropriate to look at mixtures of similar-acting
18 substances. We also drew from the language of
19 620.615 which in Subpart A of 615 says where two or
20 more of the chemical substances are similar-acting,
21 that the Agency shall consider, and our
22 consideration for the purposes of this Part 742 is
23 that it is okay in Tier I, but once you have
24 reached Tier II then you better look at it.

1 MR. FEINEN: Doesn't 620.615 also state
2 that a hazard quotient of one should be used? I
3 think it is in Subpart I.

4 MR. HORNSHAW: No, not really.

5 MR. FEINEN: No?

6 MR. HORNSHAW: No.

7 MR. FEINEN: Okay.

8 MR. HORNSHAW: 620.615 doesn't list a
9 specific target. It just says mixtures shall be
10 considered. Wait. Shall be determined. I am
11 sorry. It is not considered. It is shall be
12 determined when mixtures are present.

13 BOARD MEMBER McFAWN: There is a
14 difference between 620 and 615 and the proposed
15 rule in TACO, right?

16 MR. HORNSHAW: Yes.

17 BOARD MEMBER McFAWN: So they don't --
18 they don't reconcile?

19 MR. HORNSHAW: Pardon me?

20 BOARD MEMBER McFAWN: When you think
21 about it in a Tier I they do not reconcile, but for
22 the language that says shall be considered?

23 MR. HORNSHAW: Right.

24 BOARD MEMBER McFAWN: Under 620 and 615

1 you would have to behave differently than you would
2 under Tier I, because there you would have to
3 consider the mixture, and here you are given a
4 pass?

5 MR. HORNSHAW: I am not sure that is
6 exactly how it is. For one, 615 doesn't look at
7 tiers. It just looks at what is present in
8 groundwater at a site. And it says if there is two
9 or more chemicals that affect the same target, then
10 the need for additional health advice shall be
11 determined.

12 Then it is -- I guess it leaves it to
13 Agency policy how that is to be determined. In the
14 past we have used a hazard index of one for the
15 whole mixture as our policy. In the context of
16 this rulemaking, we are being more specific on --

17 BOARD MEMBER McFAWN: Then that would be
18 the policy that you would advocate to be
19 incorporated into the rule?

20 MR. HORNSHAW: That's correct.

21 MR. FEINEN: So you are changing your
22 policy of the hazard of one?

23 MR. HORNSHAW: Somewhat, yes.

24 MS. ROBINSON: And that's because we feel

1 that Tier I is conservative enough for -- that
2 there are built-in conservative parts of that that
3 it doesn't need to be considered under Tier I?

4 MR. HORNSHAW: That is correct.

5 MS. ROBINSON: Because Tier II is more
6 flexible, the mixtures need to be addressed?

7 MR. HORNSHAW: Right. Tier II uses more
8 site specific information. You have lost some of
9 the conservative non-site specific information that
10 is built into the Tier I remediation objectives, so
11 we feel that is where we need to look at it.

12 HEARING OFFICER FELTON: Are there any
13 further questions for Dr. Hornshaw or Mr. O'Brien
14 at this time?

15 BOARD MEMBER McFAWN: I have one
16 question.

17 I can't remember whether the example was
18 provided by the Agency or if it is one we are
19 working on at the Board, but when we consider two
20 noncarcinogens, Toluene and Ethyl Benzene, I think
21 it was, they both target the same two organs, the
22 kidney and liver. We found that these could be
23 present at a site and exceed the hazard quotient of
24 one. Now you are telling me that we should just

1 ignore that?

2 MR. HORNSHAW: Basically that's what I am
3 saying, yes.

4 BOARD MEMBER McFAWN: Could you elaborate
5 on why we should ignore that and not be concerned,
6 why the levels are conservative enough when we know
7 that usually it is judged against a hazard quotient
8 of one?

9 MR. HORNSHAW: If both of those chemicals
10 are present at the Tier I remediation objective,
11 then basically the hazard quotient could be two.
12 But built in to the Tier I remediation objective is
13 a relative source contribution term from U.S. EPA's
14 standard setting process that apportions the total
15 daily intake of that chemical from all routes to
16 account for other kinds of exposure during the day
17 so that you are not getting your entire acceptable
18 dose just from drinking water.

19 In fact, the default value of the
20 relative source contribution term is 20 percent,
21 meaning you only get 20 percent of your daily dose
22 of that chemical from drinking water. You get the
23 other 80 percent from breathing, from eating, from
24 your job site, or whatever. That's a conservative

1 estimate in itself, so that there is a level of
2 conservatism even built into the U.S. EPA's
3 drinking water standard that we feel is going to be
4 acceptable under most situations.

5 BOARD MEMBER McFAWN: If the Board wasn't
6 to repeal the rule it has got right now, the
7 first -- the second notice, do you have any idea
8 how many sites the Agency may encounter or
9 anticipate encountering where you might have these
10 two or other two noncarcinogens present at a Tier I
11 investigation?

12 MR. HORNSHAW: My guess is we would
13 probably have Ethyl Benzene and Toluene at the
14 majority of the lost sites where groundwater has
15 already been impacted. Whether they are present at
16 the -- at their respective Tier I remediation
17 objectives, I couldn't answer that.

18 I might point out, though, that usually
19 Benzene is going to be present at those sites, and
20 if it is present chances are it is going to be
21 present above its Tier I remediation objective, and
22 that chemical is going to drive most of those
23 cleanups.

24 By the time the remediation objective for

1 Benzene has been achieved, generally the
2 concentration of Ethyl Benzene, Toluene, and
3 Xylenes are also well below their respective Tier I
4 remediation objectives, and at that point then
5 chances are the mixture of Ethyl Benzene and
6 Toluene is probably not going to exceed 1.0 as a
7 hazard quotient.

8 MR. O'BRIEN: As some additional
9 information, the Toluene and Benzene, Ethyl
10 Benzene, and Xylene travel through groundwater at
11 different rates and so the proportion won't stay
12 the same over time. That is because they have
13 different affinities for soil components, and they
14 tend to be -- they tend to move at different rates,
15 and we see that over time that the proportions
16 change. So the normal calculation assumes
17 exposures over a period of time, and that wouldn't
18 necessarily occur because of the changing
19 proportion that you would see in the groundwater.

20 BOARD MEMBER McFAWN: Not being familiar
21 with those rates, is that good news or bad news? I
22 mean, does the Benzene go more quickly through the
23 groundwater?

24 MR. O'BRIEN: Benzene goes a lot more

1 quickly through the groundwater and is followed by
2 Toluene, Xylene and Ethyl Benzene, in that
3 sequence. If you just have a spill at a point in
4 time, eventually those components can be -- and we
5 see many sites where those components are entirely
6 separated. In a down gradient well we will see
7 each component in sequence. Of course, there are
8 points in there where you will see -- passing in a
9 down gradient well you will see there will be a
10 mixture where they overlap.

11 BOARD MEMBER McFAWN: You were explaining
12 how because of the presence of Benzene and you have
13 two, maybe it is not so critical that you address
14 them. Doesn't that work also because since Benzene
15 is probably present and they will be considering
16 remediation objective for that, this is not so much
17 extra work to request at a site where all three are
18 present?

19 MR. HORNSHAW: You mean evaluating the
20 Ethyl Benzene and Toluene mixture?

21 BOARD MEMBER McFAWN: Yes. Thank you.

22 MR. HORNSHAW: The data will already be
23 there. It is no big deal to calculate the ratio of
24 each to its respective remediation objective.

1 That's a simple calculation.

2 BOARD MEMBER McFAWN: Then how do the --
3 if you can, can you address how remediating the
4 Benzene as well as the other two, would those be
5 the same type of remediation or is it a different
6 process?

7 MR. HORNSHAW: No, it would -- if it is a
8 groundwater pump and treat, you are going to be
9 capturing all of those in an activated carbon so
10 that you go for one and you get them all.

11 BOARD MEMBER McFAWN: Okay. Thank you.

12 MR. HORNSHAW: Uh-huh.

13 MR. KING: Gary King. I was sworn in at
14 the last hearing.

15 At some point you have to make a public
16 policy judgment, and you can take all these
17 calculations and we could drive things into
18 everything being a Tier III calculation and drive
19 everything into a full risk assessment, but what we
20 are trying to do is kind of step back and back away
21 from that process in steps that we felt were
22 appropriate.

23 One of the things that we wanted to do
24 was continue to have a Tier I Table that had

1 integrity to it, so that if you met the Tier I
2 numbers you didn't have to jump into Tier II or
3 Tier III. Yes, there is a potential that for these
4 noncarcinogens you could have a number over one.
5 We didn't think that that was a serious risk. We
6 felt, from a policy standpoint, it was more
7 important to have a table where people could rely
8 on that table.

9 As Tom was saying, on the issue of Ethyl
10 Benzene and Toluene, if we see Ethyl Benzene and
11 Toluene, we are most assuredly going to see Benzene
12 there as well. If we see the first two together we
13 are most assuredly going to see Benzene with that,
14 and Benzene then is going to drive the cleanup as
15 far as the objectives. That has just kind of
16 been -- that's been our history on it.

17 So when you were asking the number of
18 sites, the number of sites that would be controlled
19 by the mixture of Ethyl Benzene being somehow, you
20 know, over two and it should be a one, it is going
21 to be very, very small in comparison.

22 So we didn't want to try to drive
23 everybody who had entered the system going into
24 Tier II when it would seem appropriate, at least

1 from our standpoint, to do it within the Tier I
2 objectives.

3 BOARD MEMBER McFAWN: I am speechless
4 because that is not what we heard before we went to
5 the TACO rules. Your policies seemed to have
6 changed somewhere in midstream. You were effective
7 advocates and now I understand how you are changing
8 the policy.

9 MR. KING: Yes, we did have some further
10 discussions and it certainly was pointed out to us
11 that if we were going to effect -- that we were
12 going to effect the integrity of those Tier I
13 tables and we wanted to maintain those.

14 BOARD MEMBER McFAWN: Okay. Thank you.

15 MR. FEINEN: I have a couple more
16 questions. Is Benzene a carcinogen?

17 MR. HORNSHAW: Yes.

18 MR. FEINEN: So it is not a
19 noncarcinogen?

20 MR. HORNSHAW: That's correct.

21 MR. FEINEN: So Benzene's groundwater
22 numbers have the scale from 10 to the minus 4th to
23 10 to the minus 6th, based on the cumulative
24 affects for it?

1 MR. HORNSHAW: Actually, the only
2 chemical that Benzene has a cumulative effect with
3 is 2,4,6-Trichlorophenol. That is in my
4 testimony. Even if both Benzene and
5 2,4,6-Trichlorophenol are present at their
6 respective Tier I remediation objectives, the sum
7 of the risks of the two is only 7.1 in 1,000,000
8 which is well within the range acceptable. So we
9 decided to drop Benzene out of Table H, new Table
10 H, for that reason. So its remediation objective
11 is just going to be the Tier I value. There is no
12 reason to consider a mixture.

13 MR. FEINEN: It is not going to follow
14 the same remediation objective for groundwater for
15 a noncarcinogen because it is a carcinogen?

16 MR. HORNSHAW: Right, but it also has a
17 Tier I objective.

18 MR. FEINEN: Right, and it is below --

19 MR. HORNSHAW: That's the only thing you
20 would have to meet, would be the Tier I objective.

21 MR. FEINEN: Okay. If the policy for
22 Tier I is that the hazard quotient for these
23 noncarcinogens can be above one, and because that
24 is the built-in conservativeness of Tier I, under

1 Tier II, how would the Agency be evaluating the
2 cumulative affects for groundwater noncarcinogens?

3 MR. HORNSHAW: That would be the language
4 that is proposed at 742.805(C), either 1 or 2.

5 MR. FEINEN: Okay. Thank you.

6 HEARING OFFICER FELTON: Are there any
7 additional questions for either Dr. Hornshaw or Mr.
8 O'Brien or Mr. King?

9 MR. RIESER: I would like to ask another
10 question of Mr. King in follow-up of what he was
11 just saying in terms of the policy, and that is to
12 kind of emphasize the point that you were making
13 about the importance of Tier I, and it certainly
14 points out some of the -- if you read it, it points
15 out some of the differences between what Section
16 620 was designed to do and what 742 was designed to
17 do. 620 is a consideration of what is protective
18 for groundwater and 742 is designed to be remedial
19 objectives specifically not examined in the context
20 of 620.

21 MR. KING: Is that a question?

22 MR. RIESER: Yes. Do you agree with
23 that?

24 MR. KING: There clearly is a difference

1 between the purpose of 742 relative to developing
2 remediation objectives and the reasons why 620 was
3 established.

4 MR. RIESER: Okay. Thank you.

5 HEARING OFFICER FELTON: Any further
6 questions for any of the Agency witnesses at this
7 time?

8 Okay. Seeing none, thank you, Dr.
9 Hornshaw and Mr. O'Brien and Mr. King.

10 At this time I would ask if --

11 MR. RIESER: Can we take a break?

12 HEARING OFFICER FELTON: Yes, why don't
13 we take a quick ten minute break.

14 (Whereupon a short recess was
15 taken.)

16 HEARING OFFICER FELTON: Back on the
17 record.

18 Are there any further questions for the
19 Agency at this time?

20 Okay. Seeing none, we will proceed with
21 any other testimony at this time.

22 MS. WAGNER-ROSEN: Thank you. My name is
23 Whitney Rosen. I am Legal Counsel for the Illinois
24 Environmental Regulatory Group. With me today is

1 Mr. Harry R. Walton from Illinois Power Company.
2 He will be making a statement on behalf of the
3 Illinois Environmental Regulatory Group or IERG.

4 I would just like to briefly thank the
5 Agency and the Board. The Board, for giving us
6 this opportunity to have extensive discussions on
7 this issue and present the matter for its
8 consideration, and the Agency for engaging in those
9 discussions, and really allowing the IERG and the
10 other groups from the regulatory community to
11 present their views on the issue and so that we
12 could get a consensus approach. Thank you.

13 All right. Mr. Walton?

14 MR. WALTON: My name is Harry R. Walton.
15 I would like to thank everyone for the opportunity
16 to --

17 HEARING OFFICER FELTON: Excuse me. We
18 need to swear the witness.

19 (Whereupon Mr. Walton was sworn
20 by the Notary Public.)

21 MR. WALTON: My name is Harry R. Walton.
22 I would like to thank you for the opportunity to
23 provide some brief comments today in regards to
24 this rulemaking. I am offering my comments on

1 behalf of the Site Remediation Advisory Committee,
2 and i am the chairman of that group representing
3 the State Chamber; and also on Behalf of the
4 Illinois Environmental Regulatory Group, and I am
5 the chairman of that work group, also; and also on
6 behalf of the Illinois Power Company.

7 The Advisory Committee, again, would like
8 to thank the Agency for the time. They have
9 allowed us to work through some very hard issues.
10 We developed a set of policy guidelines and
11 agreement that went to the intent of the
12 legislation and we have worked very diligently to
13 try to live up to the intent of the legislation.

14 The issues that we address this time --
15 and we appreciate the Agency raising the issue of
16 mixtures. We believe that most recent discussions
17 we have had in agreement best reflect the intent
18 and goals of the legislation in regards to 742.
19 They are still protective.

20 We need to look at the use of the Tier I,
21 Tier II, and Tier III and the mixtures in total
22 context of 742. Prior to getting into the tiers,
23 you already have a delineation of the source, you
24 have an understanding of the source. You have

1 taken the appropriate steps to remove free product
2 and remove the source. We have already started on
3 the process that is protective.

4 What we are doing now is completing the
5 pathway and ending the risk to receptors. One of
6 the guiding intents that we wanted in this
7 regulation was a look-up table that if you went
8 through the analysis and a look-up table says you
9 were done, you were done. You had finality.

10 But, again, realizing the uncertainty to
11 some of these constituents on the mixture rules, we
12 agreed with the Agency, there is a need to evaluate
13 those constituents for which the Tier I value was
14 not based on 1 cancer in 1,000,000, and that should
15 be under a Tier II analysis. This keeps the
16 integrity of the look-up tables.

17 Typically, it has been my experience, for
18 Illinois Power Company, that if you have a problem
19 with a mixture, you are going to have another
20 constituent that is going to drive the cleanup. If
21 you have a remedial strategy that addresses the
22 constituent that failed the Tier I, go to Tier II,
23 whatever, it will, in 99 percent of the cases,
24 resolve mixture rules.

1 The issue that was discussed previously
2 on Benzene, Benzene drives cleanups. It is very
3 aggressive in the environment. It moves. If you
4 satisfy that constituent, you typically satisfy the
5 other constituents that pose risk.

6 We do have some concerns to the
7 consensus, the agreements that we worked out with
8 the Agency, and those go to the issue of the risk.
9 We believe that the risk -- the cleanup objectives
10 should not be more stringent than Tier I. A Tier
11 II objective should not be more stringent than Tier
12 I. A Tier III objective not more stringent than
13 Tier I.

14 Since Tier I is based on the groundwater
15 standards, we think that that meets the intent of
16 the groundwater protection standards. Again, you
17 have to look at the basis for the generating of the
18 620 numbers. Those were generated in a general use
19 type strategy, whereas in 742 this is a remedial
20 program.

21 As I stated earlier, we have a total
22 package to look at. We have taken care of the
23 source. We have an understanding of the source.
24 We know the receptors. It is in a controlled

1 situation. Whereas the thought process for the 620
2 regs, which I was involved with, is more of a
3 general use type standard.

4 I think that those are the key issues I
5 wanted to address at this time. I would be happy
6 to answer any questions anybody would have.

7 MS. WAGNER-ROSEN: I would like to ask a
8 question.

9 MR. WALTON: All right.

10 MS. WAGNER-ROSEN: Mr. Walton, do you
11 agree with the testimony that Mr. Hornshaw provided
12 this morning regarding the equation included at
13 Section 742.805(C) that the CUO, X, A, should also
14 include a reference to Tier II remediation
15 objectives?

16 MR. WALTON: Yes. The clarifications
17 provided by Mr. Hornshaw on that issue as well as
18 Paragraph D, I think, provides sufficient clarity
19 and support for the record.

20 MS. WAGNER-ROSEN: Okay. Thank you.

21 HEARING OFFICER FELTON: Are there any
22 further questions for Mr. Walton?

23 Yes, Mr. Rieser, please proceed.

24 MR. RIESER: Mr. Walton, would you

1 explain further why it is important that the Tier I
2 Table have integrity, why that is a large issue for
3 us?

4 MR. WALTON: Well, the regulated
5 community has to have certainty. The concept of
6 Tier I was you could go through the table and if
7 you met these objectives there is an understanding
8 in the regulated community, as well as hopefully in
9 the future the business community, if you hit those
10 numbers, in the eyes of the Agency and in the eyes
11 of the government that site does not present risk,
12 quote, liability, to any future property owners.

13 That has to have some finality to it. We
14 have great concern about jeopardizing that
15 finality. But we are in agreement for those
16 constituents that have been addressed, there should
17 be -- those can and should be addressed as a Tier
18 II analysis.

19 MR. RIESER: Okay. Thank you.

20 HEARING OFFICER FELTON: Are there any
21 further questions for Mr. Walton?

22 BOARD MEMBER McFAWN: I have a question,
23 Mr. Walton.

24 You said that -- I think I heard you say

1 that the Tier I levels should be the bottom line.
2 But do you agree that if you do a Tier II analysis
3 you might come up with remediation objectives which
4 are less than the Tier I?

5 MR. WALTON: That is one -- on a policy
6 level I would -- based on the agreements and
7 intents and principles by which we interacted with
8 the Agency, I would be in a policy level
9 disagreement with having numbers more stringent
10 than Tier I, on a policy level.

11 But in a practical sense, for those
12 constituents that have been discussed we agreed
13 that that would be appropriate for those
14 constituents. I don't know if --

15 BOARD MEMBER McFAWN: So the level could
16 be less than the Tier I? If you are in a Tier II
17 analysis you could come up with a remediation
18 objective less than a Tier I?

19 MR. WALTON: Conceptually, that could
20 happen. But we challenged ourselves in the
21 regulated community to try to develop a scenario
22 where that would come to pass.

23 BOARD MEMBER McFAWN: Okay. And the
24 result was?

1 MR. WALTON: We could not find a scenario
2 where that would come to pass. Typically, the
3 primary constituent of concern is going to drive
4 cleanup. The one that is in everybody's mind,
5 because of the situation, and in Illinois Power's
6 experience, the MGP plant, what drives our cleanup
7 is Benzene. If we can satisfy the remedial
8 objective for Benzene, typically we can satisfy the
9 other remedial objectives, but Benzene would
10 dominate our remedial efforts.

11 BOARD MEMBER McFAWN: You say typically.
12 When wouldn't it?

13 MR. WALTON: I have no knowledge of when
14 it wouldn't.

15 BOARD MEMBER McFAWN: Okay. Thanks.

16 HEARING OFFICER FELTON: Okay. Any other
17 questions of Mr. Walton?

18 MR. FEINEN: If Tier II does come with a
19 more stringent number than Tier I, isn't it the
20 option to either go back to Tier I or Tier III?

21 MR. WALTON: The option -- I believe as
22 Mr. Hornshaw stated, you would then have an option
23 to go to Tier III, to -- well, you could go -- I
24 don't think you can go back to Tier I on the

1 mixtures, but you could then go to Tier III and
2 resolve it under Tier III.

3 MR. FEINEN: So your testimony about the
4 tiers was pointed towards the mixture?

5 MR. WALTON: I don't understand.

6 MR. FEINEN: The mixture of chemicals,
7 not the other chemicals that are listed in Tier I
8 that don't have cumulative affects?

9 MR. WALTON: I was discussing mixtures.

10 MR. FEINEN: Okay.

11 HEARING OFFICER FELTON: Are there any
12 other further questions for Mr. Walton?

13 Seeing none, thank you very much, Mr.
14 Walton and Ms. Rosen for your time.

15 MS. WAGNER-ROSEN: Can I have just one
16 moment, please?

17 HEARING OFFICER FELTON: Sure. Off the
18 record.

19 (Discussion off the record.)

20 HEARING OFFICER FELTON: Back on the
21 record.

22 It is our understanding that Ms. Rosen
23 has a follow-up question.

24 MS. WAGNER-ROSEN: Yes, I do. This is

1 just briefly to clarify the point Mr. Feinen
2 raised.

3 If you were doing a Tier II evaluation,
4 not in the context of a mixture rule application
5 but just in general, and you somehow came up with a
6 number that was more stringent than the Tier I
7 remediation objective would be, would it not be
8 your option to simply meet the Tier I number?

9 MR. WALTON: It is my understanding that
10 you then go to Tier I or Tier III.

11 MS. WAGNER-ROSEN: Okay. Thank you.

12 HEARING OFFICER FELTON: Thank you very
13 much, Mr. Walton and Ms. Rosen.

14 HEARING OFFICER FELTON: Just one
15 second. Off the record.

16 (Whereupon a short recess was
17 taken.)

18 HEARING OFFICER FELTON: Back on the
19 record.

20 Is there anyone else at this time that
21 would like to testify?

22 Seeing that there is no one else here
23 interested in testifying, does the Agency have any
24 follow-up comments at this time?

1 MS. ROBINSON: Are you going to go
2 through the time line for when everything --

3 HEARING OFFICER FELTON: Yes.

4 MS. ROBINSON: Okay. Then I will just be
5 patient.

6 HEARING OFFICER FELTON: Okay. Then
7 seeing that there is no one else that will be
8 testifying or presenting any questions, and that we
9 have completed all testimony and questioning of
10 this matter, it will not be necessary to continue
11 with the hearing tomorrow. The further hearing
12 tomorrow will be cancelled.

13 With regard to the public comment period,
14 we expect that we would have public comment with
15 regard to this matter 15 days from today, which
16 would be June 13th.

17 BOARD MEMBER McFAWN: Actually, that is a
18 little more than 15 days.

19 HEARING OFFICER FELTON: Yes, just a
20 little bit more.

21 MS. ROBINSON: Thank you.

22 MS. WAGNER-ROSEN: That is when the
23 comment period will end?

24 BOARD MEMBER McFAWN: Yes. We will have

1 public comment period before we go to first notice
2 which will end on June 13th.

3 MS. WAGNER-ROSEN: Thank you.

4 BOARD MEMBER McFAWN: That is because we
5 anticipate on June 19th the second meeting of the
6 Board in June. That's our target date.

7 HEARING OFFICER FELTON: There will be a
8 45 day public comment period thereafter before we
9 proceed to second notice.

10 Otherwise, other than that, are there any
11 other further comments or anything needed to --

12 MR. KING: On Docket A, is that still on
13 schedule for a July 1st effective date?

14 BOARD MEMBER McFAWN: Yes, it is. The
15 Board anticipates adopting it as final.

16 MR. KING: Will that be with an effective
17 date of July 1?

18 BOARD MEMBER McFAWN: As I understand it
19 now, yes, it will kick in on July 1.

20 MR. KING: Okay. Thank you.

21 HEARING OFFICER FELTON: Okay. Any other
22 further things that we need to address right now?

23 Okay. Seeing none, I would like to thank
24 everyone for attending the second set of hearings

1 here in Springfield and for your attention with
2 regard to this matter.

3 This matter is hereby adjourned. Thank
4 you, everyone, for coming.

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

4 I, DARLENE M. NIEMEYER, a Notary Public
5 in and for the County of Montgomery, State of
6 Illinois, DO HEREBY CERTIFY that the foregoing 54
7 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 29th of
9 May A.D., 1997, at the Howlett Building, in the
10 Lincoln Room, Springfield, Illinois, in the matter
11 of Tiered Approach to Corrective Action
12 Objectives: Amendments to 35 Ill. Adm. Code
13 742.505 and 742.900, in proceedings held before the
14 Honorable Amy Muran Felton, Hearing Officer, and
15 recorded in machine shorthand by me.

16 IN WITNESS WHEREOF I have hereunto set my
17 hand and affixed my Notarial Seal this 9th day of
18 June A.D., 1997.

19

20

21 Notary Public and
22 Certified Shorthand Reporter and
23 Registered Professional Reporter

24 CSR License No. 084-003677
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