



Illinois
Department of
Agriculture

George H. Ryan, Governor • Joe Hampton, Director

Office of the Director

State Fairgrounds • P.O. Box 19281 • Springfield, IL 62794-9281 • 217/782-2172 • TDD 217/524-6858 • Fax 217/785-4505

RECEIVED
CLERK'S OFFICE

JUN 20 2001

STATE OF ILLINOIS
Pollution Control Board

June 19, 2001

Ms. Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph, Suite 11-500
James R. Thompson Center
Chicago, IL 60601

P.c. #9

Re: Livestock Waste Regulations
35 Ill. Adm. Code 506
R01-28 (Rulemaking-Land)

Dear Ms. Gunn:

Enclosed with this cover letter please find an original and nine (9) copies of the following documents for the above-stated rulemaking:

Notice of Filing
Motion for Leave to File Instantly
Post-Hearing Comments of the Illinois Department of Agriculture
Proof of Service

If you have any questions or concerns, please do not hesitate to call me at 785-5713. Thank you for your assistance in this matter.

Sincerely,

ILLINOIS DEPARTMENT OF AGRICULTURE

Linda Rhodes
Administrative Assistant

Enclosures

RECEIVED
CLERK'S OFFICE

JUN 20 2001

STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

IN THE MATTER OF:

LIVESTOCK WASTE REGULATIONS
35 ILL. ADM. CODE 506

)
)
)
)

R01-28
(Rulemaking - Land)

NOTICE

TO: Dorothy M. Gunn, Clerk
Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601-03286
(FEDERAL EXPRESS)

Matthew J. Dunn, Chief
Environmental Control Division
Office of the Attorney General
James R. Thompson Center
100 W. Randolph, 11th Floor
Chicago, IL 60601-3218
(FIRST CLASS)

Thomas V. Skinner, Director
IL Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794-9276
(FIRST CLASS)

Brent Manning, Director
IL Dept. of Natural Resources
524 South Second Street
Springfield, IL 62701-9225
(FIRST CLASS)

Dr. John R. Lumpkin
IL Department of Public Health
535 West Jefferson, Floor 5
Springfield, IL 62761-5058
(FIRST CLASS)

Carol Sudman, Hearing Officer
Illinois Pollution Control Board
600 South Second, Suite 402
Springfield, IL 62704
(FIRST CLASS)

Service List
(FIRST CLASS)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the attached **Motion for Leave to File Instantner and Post-Hearing Comments of the Illinois Department of Agriculture**, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS DEPARTMENT OF AGRICULTURE
OF THE STATE OF ILLINOIS

By Cynthia Ervin
Cynthia Ervin
General Counsel

DATED: June 19, 2001

P. O. Box 19281
Springfield, IL 62794-9281

THIS FILING IS SUBMITTED ON RECYCLED PAPER

JUN 20 2001

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

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

Motion for Leave to File Instanter

NOW COMES the ILLINOIS DEPARTMENT OF AGRICULTURE (Department), by its attorney, Cynthia Ervin, and requests that the Hearing Officer allow the filing of these Post Hearing Comments instanter for the reasons set forth herein.

1. After receiving all the post-hearing comments in this matter, the undersigned counsel spoke with the Hearing Officer concerning submitting post-hearing comments to clarify a few points contained in post-hearing submissions and was directed to file these comments with a Motion for Leave to File Instanter.

2. The Department received the comments of Terry Feldmann on June 6, 2001, after the close of the comment period.

3. The Department believes that several statements in Mr. Feldmann's comments need to be clarified in order for the Board to fully understand the Department's proposal.

4. The Board has an interest in developing a full and complete record in the aforementioned rulemaking.

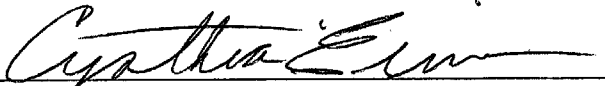
5. Because there is no statutory deadline and no response provided to other members of the public to respond to these Post Hearing Comments, no members of the

public or a regulatory agency have been or will be adversely impacted by filing the comments several days late.

Therefore, for the reasons set forth herein, we request that the hearing officer grant this Motion for Leave to File Instantly authorizing the filing of the attached Post Hearing Comments.

Respectfully submitted,

ILLINOIS DEPARTMENT OF AGRICULTURE
OF THE STATE OF ILLINOIS

By 
Cynthia Ervin
General Counsel

DATED: July 19, 2001

P. O. Box 19281
Springfield, IL 62794-9281

ILLINOIS POLLUTION CONTROL BOARD

RECEIVED

CLERK'S OFFICE

JUN 20 2001

STATE OF ILLINOIS
Pollution Control Board

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

Post-Hearing Comments of the Illinois Department of Agriculture

NOW COMES the ILLINOIS DEPARTMENT OF AGRICULTURE (Department), by its attorney Cynthia Ervin, and hereby submits comments in the aforementioned rulemaking.

The Department welcomes the opportunity to file post-comment period comments with the Illinois Pollution Control Board (Board) in the matter of amendments to the livestock waste regulations (35 Ill. Adm. Code 506). The Department has presented testimony at the hearings, provided answers to questions from the Board and members of the public, and submitted public comments during the hearing process. The Department would like to provide further comment and clarification to the comments submitted by Mr. Terry Feldmann, P.E. during the comment period.

Comment number 2 from Mr. Feldmann, referring to Section 506.210 of the rule proposal, states that the use of secondary containment at a livestock waste handling facility is a requirement. The Department reiterated statutory language from the Livestock Management Facilities Act (Act) in the proposal. The statutory language includes, in part, "... if an engineer ... determines ... that construction of such a secondary berm or other feature or features is necessary in order to ensure against a

release . . .”. The intent of the Department was not to require the secondary containment in all cases but to maintain consistency with the statutory language and leave the determination to the professional judgment of the engineer involved.

Mr. Feldmann contends, in his comment number 3, that the 6-inch rainfall storage requirement, as presented in Section 506.303, is already accounted for in the 2-foot freeboard and suggests adding the 25-year, 24-hour storm event amount. The Department was maintaining consistency with the lagoon storage volume requirements of Sections 506.204(g)(3) and (4) when proposing the storage volume requirements for non-lagoon facilities. The Department contends that the proposal, in a more simplistic approach, accomplishes basically the same outcome as Mr. Feldmann suggests since the 25-year, 24-hour storm event amounts for the state of Illinois vary from slightly less than 5 inches in the north to slightly less than 6 inches in the south.

In his comment number 4, Mr. Feldmann disagrees with the requirement for a hydraulic conductivity in the floor of deep bedded livestock systems and poultry litter systems of equal to or less than 1×10^{-7} centimeters per second (Section 506.307(b)). The Department concurs that these types of livestock waste handling facilities using absorbent materials are different than the more common types of waste handling facilities such as deep pits, lagoons, or storage ponds. However to provide consistency, the Department contends that a minimum hydraulic conductivity for these structures is required to guard against events such as water leaks and inadequate amounts of bedding. As proposed in the rules, alternative design proposals can be submitted to the Department. Furthermore, in our previous public comments, the Department suggested increasing the allowable hydraulic conductivity to 1×10^{-6} centimeters per second.

After further consideration, the Department concurs with Mr. Feldmann's comment number 7 regarding the installation of perimeter drainage tubing near the footings of the structure (Section 506.310(d)). Installing the tubing one foot below the footings may increase construction costs unnecessarily. The Department suggests language requiring the top of the perimeter drainage tubing be positioned below the top of the waste storage structure floor.

The Department disagrees with comment number 8 from Mr. Feldmann regarding the thickness of walls and floors of constructed in an area of shallow aquifer material (Section 506.310). Section 13(b) of the Act states in part, ". . . shall be designed to ensure the structural integrity of the containment structure and to prevent seepage of the stored material to groundwater." This was the intent of the Department when proposing the rule. The rule does not hinder the professional judgment of the engineer as alternative design proposals can be submitted to the Department. Mr. Feldmann alludes to the involvement of an engineer in the design of the structure. As the rule is proposed, the involvement of a licensed professional engineer is not always required in the development of construction plans.


The Department concurs with Mr. Feldmann's comment number 2 with regard to the testimony of the Illinois Environmental Protection Agency. The requirement for a storage facility for perimeter drainage tubing effluent is excessive and unnecessarily expensive. The Department also commented, in our previous public comments, that the inclusion of a sampling port would be unnecessary and overburdensome.

Thank you again for the opportunity to provide these additional comments. The Department looks forward to the Board's response to our proposal and the many

comments that have been offered by the various interest groups. In developing our proposal and subsequent comments, the Department has attempted to balance environmental protection with economic and technical feasibility. Although certainly not perfect, we continue to believe that we have been successful in that attempt and request the Board adopt the proposal with only minor changes as noted in our comments.

Respectfully submitted,

ILLINOIS DEPARTMENT OF AGRICULTURE
OF THE STATE OF ILLINOIS

By 
Cynthia Ervin
General Counsel

DATED: July 19, 2001

P. O. Box 19281
Springfield, IL 62794-9281

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Motion for Leave to File
Instantner and Post-Hearing Comments of the Illinois Department of Agriculture, upon the persons to
whom they are directed by placing copies in envelopes addressed to:

Dorothy M. Gunn, Clerk
Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601-03286
(FEDERAL EXPRESS)

Matthew J. Dunn, Chief
Environmental Control Division
Office of the Attorney General
James R. Thompson Center
100 W. Randolph, 11th Floor
Chicago, IL 60601-3218
(FIRST CLASS)

Thomas V. Skinner, Director
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1021 North Grand Avenue East
Springfield, IL 62794-9276
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Brent Manning, Director
IL Dept. of Natural Resources
524 South Second Street
Springfield, IL 62701-9225
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Dr. John R. Lumpkin
IL Department of Public Health
535 West Jefferson, Floor 5
Springfield, IL 62761-5058
(FIRST CLASS)

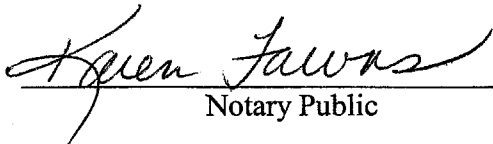
Carol Sudman, Hearing Officer
Illinois Pollution Control Board
600 South Second, Suite 402
Springfield, IL 62704
(FIRST CLASS)

Service List
(FIRST CLASS)

and mailing them from Springfield, Illinois on June 19, 2001, with sufficient postage affixed as
indicated above.



SUBSCRIBED AND SWORN TO BEFORE ME
this 19th day of June, 2001.



Notary Public



THIS FILING IS SUBMITTED ON RECYCLED PAPER

**R01-28 Service List
Livestock Waste Management
Friday, April 20, 2001**

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R01-28 Service List
Livestock Waste Management
Friday, April 20, 2001

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