

**ORIGINAL**

ILLINOIS POLLUTION CONTROL BOARD

July 7, 2005

IN THE MATTER OF: )  
)  
PROPOSED AMENDMENTS TO: ) R04-22  
REGULATION OF PETROLEUM LEAKING ) (UST Rulemaking)  
UNDERGROUND STORAGE TANKS (35 )  
ILL. ADM. CODE 732) )

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IN THE MATTER OF: )  
)  
PROPOSED AMENDMENTS TO: ) R04-23  
REGULATION OF PETROLEUM LEAKING ) (UST Rulemaking)  
UNDERGROUND STORAGE TANKS (35 ) (Consolidated)  
ILL. ADM. CODE 734) )

**HEARING OFFICER ORDER**

On June 7, 2005, a hearing officer order was issued denying requests by United Science Industries (USI) to extend the prefilng of testimony deadline until July 15, 2005. The hearing officer order noted that:

July 15, 2005, is only 12 days before the scheduled hearing in this proceeding and I am not convinced that 12 days is sufficient time to review the prefiled testimony before the hearing. Therefore, I will grant the request but only to July 8, 2005. This is an additional seven days from the prior deadline of July 1, 2005. Therefore, prefiled testimony must be filed with the Board and served on the persons on the service list by July 8, 2005. The mailbox rule does not apply.

On June 28, 2005, I received an email from Mr. Jay Koch with USI, stating:

I am writing in regard to the upcoming hearing on July 27, 2005 for Rulemaking R04-022 and R04-023, Regulation of Petroleum Leaking Underground Storage Tank. Our personnel are currently preparing pre-filed testimony to be submitted as required by the July 8, 2005 deadline to the Board. We are also in the process of preparing a substantial amount of information that should prove to be significant to the hearings and as such would like to ask if testimony pre-filed by July 8, 2005 can be amended or supplemented anytime prior the hearings and/or at the actual hearing? Please advise.

I responded by email on that same day stating that "pursuant to the hearing officer order of June 7, 2005, all prefiled testimony must be filed on July 8, 2005. Any testimony which is not prefiled will be allowed only as time permits on the day of the hearing."

On July 6, 2005, USI electronically filed three separate requests for an extension of the prefiling deadline. *See* P.C. 46-48. The requests also ask that the Illinois Environmental Protection Agency be directed to answer certain questions with more specificity. I have reviewed the requests and can find no compelling reason to reverse the June 7, 2005 order. Therefore, the requests are denied and pursuant to the Board's rules any testimony not prefiled will be allowed as time permits. *See* 35 Ill. Adm. Code 102.424(g).

IT IS SO ORDERED.



Marie E. Tipsord  
Hearing Officer  
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