

ILLINOIS POLLUTION CONTROL BOARD
October 20, 2005

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO TIERED) R06-10
APPROACH TO CORRECTIVE ACTION) (Rulemaking - Land)
OBJECTIVES (35 ILL. ADM. CODE 742))

ORDER OF THE BOARD (by A.S. Moore):

On September 30, 2005, the Board received a rulemaking proposal from the Illinois Environmental Protection Agency (Agency) to amend the Tiered Approach to Corrective Action Objectives (TACO). The TACO rules are set forth in Part 742 of Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code 742). Today the Board accepts the Agency's proposal for hearing.¹

The Board adopted TACO in 1997 under Title XVII of the Environmental Protection Act (Act) (415 ILCS 5/58 *et seq.* (2004)). As the Agency notes in its current proposal, the TACO rules provide "procedures for developing remediation objectives based on various risks to human health posed by environmental conditions at a site." Statement at 2. Generally, TACO is used at sites being remediated in the Site Remediation Program (SRP), in the Leaking Underground Storage Tank (LUST) Program, and under Resource Conservation and Recovery Act (RCRA) Part B Permits and Closures. *Id.* at 1. The Agency asserts that using TACO has put "many sites back into productive use while significantly decreasing remediation costs statewide." *Id.* at 4.

The Board has amended the Part 742 rules several times over the years. For example, in 2000, the Board adopted amendments proposed by the Agency that were "necessitated by new technology, science, and programmatic changes." Statement at 2. According to the Agency, it is again necessary to amend TACO to keep it "current." *Id.* The Agency states that it has been compiling these most recent proposed revisions for the past five years. *Id.* The Agency describes the nature of its current proposal:

The proposed amendments range in content from comments from the regulated community to improve procedures to new standards established for various contaminants, updated test methods, and new toxicity criteria. The effect of the proposed amendments is to update and improve standards and procedures so that end users of the rules can achieve accurate data results that are protective of human health. *Id.* at 2-3.

The Board notes that the Agency's proposal includes only one set of the materials the Agency seeks to have incorporated into TACO by reference. The Board's procedural rules generally require an original and nine copies of each filing (*see* 35 Ill. Adm. Code 101.302(h), 102.202(d), 102.400), and the Agency has not sought leave here to file less. The Board

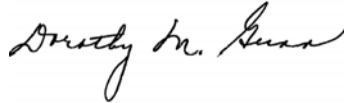
¹ The Board cites the proposal's Statement of Reasons as "Statement at _."

recognizes, however, that the materials proposed to be incorporated by reference in this instance are quite voluminous and include a number of bound reports. Under these circumstances, the Board directs the Agency to file, within 30 days after the date of this order, an additional three sets of the materials proposed to be incorporated by reference. If the Agency needs more time to file these materials, it may file a motion for leave with the hearing officer within the original 30 days.

The Board finds that the Agency's rulemaking proposal satisfies the content requirements of 35 Ill. Adm. Code 102.202, with the noted exception regarding incorporation by reference. The Board accepts the proposal for hearing. The Board directs the hearing officer assigned to proceed expeditiously under the Title VII rulemaking provisions of the Act (415 ILCS 5/27, 28 (2004)) and the Board's procedural rules (35 Ill. Adm. Code 102).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 20, 2005, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board