

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD  
February 16, 2006

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STATE OF ILLINOIS  
Pollution Control Board

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

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

**NOTICE OF HEARINGS**

DATES, TIMES, AND PLACE:

March 23, 2006, to be continued to March 24, 2006, if necessary  
10:00 a.m.  
Illinois Environmental Protection Agency Office Building  
Training Room, 1214 West  
1021 N. Grand Avenue East, North Entrance  
Springfield, IL

PURPOSE OF HEARINGS: Merit and Economic  
ATTENDING BOARD MEMBERS: G. Tanner Girard  
HEARING OFFICER: Marie E. Tipsord

**HEARING OFFICER ORDER**

The Board opened Subdocket B in this rulemaking on December 1, 2005. The purpose of Subdocket B is to address the issues pertaining to the professional consulting services provisions. See Proposed Amendments to Leaking Underground Storage Tanks (35 Ill. Adm. Code 732, 734), R04-22, 23(B) (Jan. 5, 2006)). Specifically, the Board will address issues concerning the scope of work associated with lump sum payments as well as the lump sum payment amounts proposed at first notice in Subdocket A. *Id.* In the Board's January 5, 2006 opinion and order,

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact Dorothy Gunn, Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601, at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

the Board stated that there were issues which needed to be addressed. *Id.* The Board summarized those issues as the adequacy of the proposed scope of work and whether scope of work should be part of the Board rules or the Agency's implementation rules. *Id.* Participants' prefiled testimony should address the issues set forth by the Board in the January 5, 2006 opinion and order.

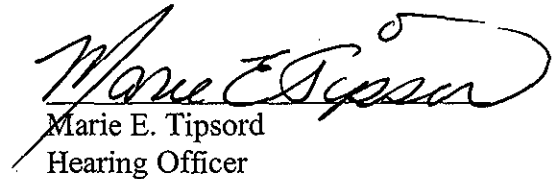
Also, on the January 18, 2006, the Joint Committee on Administrative Rules (JCAR) issued a recommendation to the Board and a certificate of no objection to the rules proposed in Subdocket A. Proposed Amendments to Leaking Underground Storage Tanks (35 Ill. Adm. Code 732, 734), R04-22, 23(A) (Feb. 16, 2006). JCAR's recommendation was that "the Board add to the issues it is addressing in its dockets R04-22(B) and R04-23(B) the costs that are ineligible for payment from the Underground Storage Tank Fund stated in" 35 Ill. Adm. Code 732.606(ddd) and (eee) and 734.630(aaa) and (bbb). *Id.* The Board stated in the February 16, 2006 opinion and order that "[t]he Board appreciates the suggestions of JCAR and the Board will continue to review issues associated with Sections 732.606(ddd) and (eee) and 734.630(aaa) and (bbb) in Subdocket B." *Id.* Therefore, any participant wishing to further address the issues of ineligible costs listed in Sections 732.606(ddd) and (eee) and 734.630(aaa) and (bbb) may do so in their prefiled testimony.

In response to comments in Subdocket A, the Board agreed to again request that the Department of Commerce and Economic Opportunity (DCEO) conduct a study of the economic impact of the proposed rules pursuant to Section 27(b) of the Environmental Protection Act (415 ILCS 5/27(b) (2004)). See Proposed Amendments to Leaking Underground Storage Tanks (35 Ill. Adm. Code 732, 734), R04-22, 23(A) (Dec. 1, 2005)) The Board made the second request in a letter dated January 10, 2006. On February 14, 2006, the Board received from DCEO a letter indicating that due to "fiscal restraints" DCEO had decided not to conduct an Economic Impact study on this rulemaking. Participants may also comment on the decision of DCEO in their prefiled testimony.

The Board has today adopted the rules in Subdocket A (Proposed Amendments to Leaking Underground Storage Tanks (35 Ill. Adm. Code 732, 734), R04-22, 23(A) (Feb. 16, 2006)) and the Board will not revisit any additional issues from Subdocket A in the Subdocket B proceeding. Therefore, the Board will only hear testimony on issues pertaining to the professional consulting services provisions, the issues raised by JCAR on January 18, 2006, and DCEO's decision not to perform an economic impact study.

Persons who plan to testify at the hearing must prefile their testimony by March 1, 2006. The Board will allow only those who have prefiled testimony to testify unless time allows for additional testimony. Hearing will begin at 1 p.m. on March 23, 2006, and will continue on March 24, 2006, if necessary to accommodate persons who have prefiled testimony. The prefiled testimony will be available either on the Board's web page at [www.ipcb.state.il.us](http://www.ipcb.state.il.us) or by contacting the hearing officer.

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "Marie E. Tipsord". The signature is written in black ink and is positioned above the typed name.

Marie E. Tipsord  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
(312) 814-4925