

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PROPOSED AMENDMENTS TO THE)	R 07-17
BOARD'S PROCEDURAL RULES AND)	(Rulemaking-Procedural-Land)
UNDERGROUND STORAGE TANK)	
REGULATIONS TO REFLECT P.A. 94-0274,)	
P.A. 94-0276, AND P.A. 94-0824 (35 ILL.)	
ADM. CODE 101.202, 732.103, 732.702,)	
734.115, AND 734.710)	

NOTICE

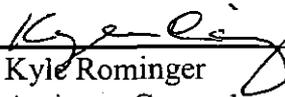
TO: Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed with the Office of the Pollution Control Board the COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY on behalf of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Date: May 14, 2007

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Kyle Rominger
Assistant Counsel
Division of Legal Counsel

1021 North Grand Avenue East
P.O. Box 19276
Spring field, IL 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON
RECYCLED PAPER

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO THE) R 07-17
BOARD'S PROCEDURAL RULES AND) (Rulemaking – Procedural, Land)
UNDERGROUND STORAGE TANK)
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ADM. CODE 101.202, 732.103, 732.702,)
734.115, AND 734.710))

COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA") and submits the following comments on the amendments proposed in the Board's April 19, 2007, Opinion and Order. The Illinois EPA does not plan to submit testimony in this rulemaking. However, the Illinois EPA would be happy to answer any questions the Board may have about these comments at the June 7, 2007, hearing in Springfield.

The first comment concerns the proposed amendments to 35 Ill. Adm. Code 732.702(d) and 734.710(d) ("Section 732.702(d)" and "Section 734.710(d)"). The amendments are proposed pursuant to P.A. 94-0276, which made the following change to Section 57.10(c) of the Environmental Protection Act:

- (c) The Agency's issuance of a no further remediation letter shall signify, based on the certification of the Licensed Professional Engineer, that:
- (1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with;
 - (2) all corrective action concerning the remediation of the occurrence has been completed; and

- (3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment.

This subsection (c) does not apply to off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property.

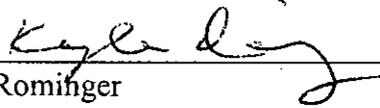
The statutory change pertains to the effect of a no further remediation letter upon off-site property that has not been remediated due to a denial of access. The proposed amendments to Sections 732.702(d) and 734.710(d), however, address the required contents of a no further remediation letter, not the effect of the letter. To incorporate the statutory language in a manner that reflects the effect of a no further remediation letter upon unremediated off-site property, the Illinois EPA suggests amending Sections 732.702(d) and 734.710(d) similar to the following:

- d) A statement that the Agency's issuance of the No Further Remediation Letter signifies that, except for off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property:
 - 1) *All statutory and regulatory corrective action requirements applicable to the occurrence have been complied with;*
 - 2) *All corrective action concerning the remediation of the occurrence has been completed; and*
 - 3) *No further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment [415 ILCS 5/57.10(c)] [415 ILCS 5/57.10(e)(1)-(3)], or, if the No Further Remediation Letter is issued pursuant to Section 734.350(e) of this Part, that the owner or operator has demonstrated to the Agency's satisfaction an inability to obtain access to an off-site property despite best efforts and therefore is not required to perform corrective action on the off-site property in order to satisfy the corrective action requirements of this Part, but is not relieved of responsibility to clean up portions of the release that have migrated off-site;*

In addition to the above, the proposed revision to 35 Ill. Adm. Code 101.202 contains a typographical error. On page 14 of the Board's April 17, 2007, Opinion and Order, the third line of the language being added should begin with "*is managed*" instead of "*its managed*."

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY



Kyle Rominger
Assistant Counsel

DATED: 5-14-07
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STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)
)

CERTIFICATE OF SERVICE

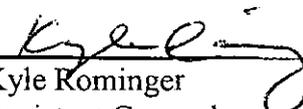
I, the undersigned, an attorney, state that I have served the attached Comments of the Illinois Environmental Protection Agency upon the following persons by mailing it via First-Class Mail from Springfield, Illinois, with sufficient postage affixed:

Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

Dated: May 14, 2007

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Kyle Rominger
Assistant Counsel
Division of Legal Counsel

1021 North Grand Avenue East
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Springfield, IL 62794-9276
217/782-5544

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SERVICE LIST

R 07-17

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