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04/26/2007

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CLERK'S OFFICE

APR 30 2007

STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD

James R. Thompson Center 100 W. Randolph St., Ste 11-500
Dorothy Gunn
CHICAGO, IL 60601

Dear Dorothy Gunn

Your rules Listed below met our codification standards and have been published in Volume 31, Issue 18 of the Illinois Register, dated 05/04/2007.

PROPOSED RULES

Definitions and General Provisions

35 Ill. Adm. Code 211

Point Of Contact:Erin Conley

Page 6578

Nitrogen Oxides Emission

35 Ill. Adm. Code 217

Point Of Contact:Erin Conley

Page 6597

General Rules

35 Ill. Adm. Code 101

Point Of Contact:Erin Conley

Page 6537

R07-17

Petroleum Underground Storage Tanks (Releases Reported September 23, 1994, Through June 23, 2002)

35 Ill. Adm. Code 732

Point Of Contact:Erin Conley

Page 6629

R07-17

Petroleum Underground Storage Tanks (Releases Reported on or After June 24, 2002)

35 Ill. Adm. Code 734

Point Of Contact:Erin Conley

Page 6648

R07-17

Permits and General Provisions

35 Ill. Adm. Code 201

Point Of Contact:Erin Conley

Page 6559

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Petroleum Underground Storage Tanks (Releases Reported September 23, 1994, Through June 23, 2002)
- 2) Code Citation: 35 Ill. Adm. Code 732
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
732.103	Amend
732.702	Amend
- 4) Statutory Authority: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17] as amended by Public Act 94-274 and 94-276.
- 5) A Complete Description of the Subjects and Issues Involved:
For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-17. This rulemaking proposes amendments to Parts 101, 732, and 734 to incorporate recent statutory changes to the Environmental Protection Act (Act) (415 ILCS 5 /1 et seq.).

The amendments to Part 732 are driven by changes to the Act found in Public Act 94-274 and 94-276. Public Act 94-0274 (P.A. 94-0274), effective January 1, 2006, amended the Act's definitions with regard to certain activities taken by the Illinois Environmental Protection Agency (Agency) in its underground storage tank (UST) program. See 415 ILCS 5/57.2 (2004). Specifically, P.A. 94-0274 provides that, in the Title XVI of the Act addressing petroleum USTs,

the term "owner" shall also mean any person who has submitted to the Agency a written election to proceed under this Title and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "no further remediation letter" by the Agency pursuant to this Title. P.A. 94-0274.

The Board proposes to amend the definition of "owner" in Sections 732.103 and 734.115 of its UST regulations (35 Ill. Adm. Code 732.103, 734.115) to reflect the statutory amendment enacted by P.A. 94-0274.

Public Act 94-0276 (P.A. 94-0276), effective January 1, 2006, amended the Act's provisions regarding no further remediation (NFR) letters. See 415 ILCS 5/57.10(c).

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NOTICE OF PROPOSED AMENDMENT

Specifically, the P.A. 94-0276 provides that the Act's subsection addressing the significance of the Agency's issuance of an NFR letter "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." P.A. 94-0276. The Board proposes to amend its regulations regarding NFR letters in Sections 732.702 and 734.710 (35 Ill. Adm. Code 732.702, 734.710) to reflect the statutory amendment enacted by P.A. 92-0276.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rule replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rule contain incorporations by reference? No
- 10) Are there any other proposed rules pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2006)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R07-17 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

The Board has scheduled two hearings in this rulemaking as follows:

First hearing:

Wednesday, May 16, 2007

1:00 pm

Illinois Pollution Control Board conference room
room 11-512

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

James R. Thompson center
100 W. Randolph Street
Chicago, Illinois

Second hearing:

Thursday June 7, 2007

1:00 pm

Illinois Pollution Control Board conference room

Illinois Environmental Protection Agency building, north entrance

1021 N. Grand Ave. East

Springfield, Illinois

Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312-814-3620, or download from the Board's Web site at www.ipcb.state.il.us.

For more information contact Tim Fox at 312/814-6085 or email at foxt@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected:

This rulemaking will impact any small business, small municipality or not for profit corporation that participates in the underground storage tank program as the proposed amendments, in reflecting recent statutory changes, clarify portions of the existing rules regarding the responsibilities of owners of impacted sites.

B) Reporting, bookkeeping or other procedures required for compliance:

This rulemaking does not impose any additional reporting or recordkeeping requirements.

C) Types of Professional skills necessary for compliance: None

14) Reason this rulemaking was not included on the most recent regulatory agenda:

This rulemaking was not included in the Board's most recent regulatory agenda, as the Board did not anticipate incorporating these statutory amendments into its rules at this time.

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NOTICE OF PROPOSED AMENDMENT

The full text of the Proposed Amendment begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Petroleum Underground Storage Tanks (Releases Reported on or After June 24, 2002)
- 2) Code Citation: 35 Ill. Adm. Code 734
- 3) Section Numbers: Proposed Action:
 734.115 Amend
 734.710 Amend
- 4) Statutory Authority: Implementing Sections 22.12 and 57 - 57.17 and authorized by Sections 5, 22, 27, and 57.14A of the Environmental Protection Act [415 ILCS 5/5, 22, 22.12, 27, and 57 - 57.17] as amended by Public Act 94-274 and 94-276.
- 5) A Complete Description of the Subjects and Issues Involved:
 For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-17. This rulemaking proposes amendments to Parts 101, 732, and 734 to incorporate recent statutory changes to the Environmental Protection Act (Act) (415 ILCS 5 /1 et seq.).

The amendments to Part 734 are driven by changes to the Act found in Public Act 94-274 and 94-276. Public Act 94-0274 (P.A. 94-0274), effective January 1, 2006, amended the Act's definitions with regard to certain activities taken by the Illinois Environmental Protection Agency (Agency) in its underground storage tank (UST) program. *See* 415 ILCS 5/57.2 (2004). Specifically, P.A. 94-0274 provides that, in the Title XVI of the Act addressing petroleum USTs,

the term "owner" shall also mean any person who has submitted to the Agency a written election to proceed under this Title and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "no further remediation letter" by the Agency pursuant to this Title. P.A. 94-0274.

The Board proposes to amend the definition of "owner" in Sections 732.103 and 734.115 of its UST regulations (35 Ill. Adm. Code 732.103, 734.115) to reflect the statutory amendment enacted by P.A. 94-0274.

Public Act 94-0276 (P.A. 94-0276), effective January 1, 2006, amended the Act's provisions regarding no further remediation (NFR) letters. *See* 415 ILCS 5/57.10(c).

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Specifically, the P.A. 94-0276 provides that the Act's subsection addressing the significance of the Agency's issuance of an NFR letter "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." P.A. 94-0276. The Board proposes to amend its regulations regarding NFR letters in Sections 732.702 and 734.710 (35 Ill. Adm. Code 732.702, 734.710) to reflect the statutory amendment enacted by P.A. 92-0276.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rule replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rule contain incorporations by reference? No
- 10) Are there any other proposed rules pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2006)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R07-17 and be addressed to:

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Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

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First hearing:

Wednesday, May 16, 2007

1:00 pm

Illinois Pollution Control Board conference room
room 11-512

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

James R. Thompson center
100 W. Randolph Street
Chicago, Illinois

Second hearing:

Thursday June 7, 2007

1:00 pm

Illinois Pollution Control Board conference room

Illinois Environmental Protection Agency building, north entrance

1021 N. Grand Ave. East

Springfield, Illinois

Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312-814-3620, or download from the Board's Web site at www.ipcb.state.il.us.

For more information contact Tim Fox at 312/814-6085 or email at foxt@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected:

This rulemaking will impact any small business, small municipality or not for profit corporation that participates in the underground storage tank program as the proposed amendments, in reflecting recent statutory changes, clarify portions of the existing rules regarding the responsibilities of owners of impacted sites.

B) Reporting, bookkeeping or other procedures required for compliance:

This rulemaking does not impose any additional reporting or recordkeeping requirements.

C) Types of Professional skills necessary for compliance: None

14) Reason this rulemaking was not included on the most recent regulatory agenda:

This rulemaking was not included in the Board's most recent regulatory agenda, as the Board did not anticipate incorporating these statutory amendments into its rules at this time.

The full text of the Proposed Amendment begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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STATE OF ILLINOIS
Pollution Control Board

- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) Section Number: 101.202 Proposed Action: Amend
- 4) Statutory Authority: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] as amended by Public Act 94-0824
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's April 19, 2007 opinion and order in docket R07-17. This rulemaking proposes amendments to Parts 101, 732, and 734 to incorporate recent statutory changes to the Environmental Protection Act (Act) [415 ILCS 5].

The amendments to Part 101 are driven by changes to the Act found in Public Act (PA) 94-824. P.A. 94-824, effective June 2, 2006, amended the Act's definition of "pollution control facility". See 415 ILCS 5/3.330(a)(11.5). Specifically, P.A. 94-824 added a sixteenth exception to that definition to include processing sites or facilities that receive used oil for purposes of recycling the used oil. This exemption applies to facilities that are:

- (i) located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and (ii) in compliance with all applicable zoning requirements [415 ILCS 5/3.330(a)(11.5)].

The Board is amending the definition of "pollution control facility" in its procedural rules to include this additional exemption.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2004)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R07-17 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago IL 60601

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First hearing:

Wednesday, May 16, 2007
1:00 pm
Illinois Pollution Control Board conference room
Room 11-512
James R. Thompson center
100 W. Randolph Street
Chicago, Illinois

Second hearing:

Thursday June 7, 2007
1:00 pm
Illinois Pollution Control Board conference room
Illinois Environmental Protection Agency building, north entrance
1021 N. Grand Ave. East
Springfield, Illinois

POLLUTION CONTROL BOARD

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For more information contact Tim Fox at 312/814-6085 or email at foxt@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking would affect any used oil processing facility that qualifies under the new exemption of the definition of a "pollution control facility".
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not impose any additional reporting or recordkeeping requirements.
- C) Types of Professional skills necessary for compliance: None

14) Reason this rulemaking was not included on the most recent regulatory agenda: This rulemaking was not included in the Board's most recent regulatory agenda because: the Board did not anticipate incorporating these statutory amendments into its rules at this time.

The full text of the Proposed Amendment begins on the next page: