

Board Adopts Rulemakings for Second Notice Site Remediation Program

On February 21, 2002, the Illinois Pollution Control Board (Board) adopted for second notice two rulemakings that address issues concerning remediation of contaminated sites. The two rulemakings involve the remediation of sites enrolled in the Site Remediation Program (SRP) and the Leaking Underground Storage Tank (LUST) program. On February 1, 2001, the Board consolidated two rulemaking proposals involving the SRP regulations. See Site Remediation Program: Amendments to 35 Ill. Adm. Code 740, R01-27 and Site Remediation Program: Proposed 35 Ill. Adm. Code 740.Subpart H (Public Schools), R01-29.

The initial rulemaking proposal (R01-27) was filed by the Illinois Environmental Protection Agency (IEPA). With its proposal, the IEPA intended to correct and clarify language in the regulations where problems had been encountered during implementation of the program. The IEPA included in its proposal new regulations regarding laboratory accreditation, soil management zones, and recognition of the work performed by Licensed Professional Geologists (LPG) in site remediation activities.

In response to comments received from the Illinois Chapter of the American Institute of Professional Geologists during the first notice period, the Board removed all references to LPGs from its second notice opinion and order. The LPGs will attempt to secure an amendment to the Environmental Protection Act prior to seeking an amendment to the SRP regulations. The removal of references to LPGs from the proposed amendments is the most notable way in which the Board's second notice proposal differs from that originally proposed to it by the IEPA.

In R01-29, the Citizens for Better Environment (CBE) originally proposed amending the SRP rules by adding a new Subpart H, relating to schools, public parks, and playgrounds. CBE, however, ultimately amended its proposal to deal only with sites undergoing remediation with a future intended use as a public school. CBE proposes adding requirements that would ensure completion of all remedial activities and receipt of a No Further Remediation Letter prior to the school being open for occupancy. CBE also proposes additional requirements, such as the establishment of a document repository that would enhance public participation in the site remediation process.

CBE's proposal was prompted by the site remediation that took place at Finkl Academy and Zapata Academy in Cook County. Both schools were built on sites undergoing remediation and both schools were opened prior to completion of the remedial work. The Board made some changes at second notice to CBE's proposal. These changes were requested by the IEPA and were agreed to by CBE.

Leaking Underground Storage Tank Program

Amendments to Regulation of Petroleum Leaking Underground Storage Tanks: 35 Ill. Adm. Code 732, R01-26 was proposed by the IEPA to revise regulations

prescribing procedures and standards for the IEPA's administration of its duties under the leaking UST program. This rulemaking also establishes MTBE as a chemical to be tested for in remediation projects.

At second-notice, the Board removed all references to Licensed Professional Geologists (LPGs) in this proposal. The American Institute of Professional Geologists (AIPG) is contemplating a legislative proposal to address concerns that were raised during the first-notice comment period regarding the role of LPGs in leaking UST projects.

Owners and operators of USTs who engage in "Early Action" remedial activities may qualify for reimbursement from the UST Fund. At second notice, the Board accepted the Agency's suggestion of "plus 7 days" on the trigger date for the beginning of the 45-day Early Action/reimbursement period, addressing an issue that has come before the Board in UST reimbursement cases.

The proposed rulemakings now go to the Joint Committee on Administrative Rules (JCAR) for review.

Written public comments, hearing transcripts, and prefiled testimony in this matter (R01-13) are posted on the Board's Web site. Hard copies of transcripts, written comments, or any other document filed in this matter may be downloaded from the Web free of charge or obtained for \$.75 per page from the Clerk's Office by calling 312-814-3620 or writing:

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