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MAY 01 2001

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
REVISION OF THE WASTE) R01-29
DISPOSAL RULES: ADOPTION) (Rulemaking)
OF 35 ILL. ADMIN. CODE 740.800)

NOTICE OF FILING

TO: Persons on the Attached Service List

PLEASE TAKE NOTICE that today, on behalf of the Petitioner, CITIZENS FOR A BETTER ENVIRONMENT ("CBE"), I have filed with the Clerk of the Illinois Pollution Control Board an amended proposal to adopt 35 Ill. Admin. Code 740.800, copies of which are served on you.

CITIZENS FOR A BETTER ENVIRONMENT

By: Holly D. Gordon
One of its Attorneys

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DISPOSAL RULES: ADOPTION
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R01-29
(Rulemaking)

STATE OF ILLINOIS
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**AMENDED PETITION OF CITIZENS FOR A BETTER ENVIRONMENT
TO ADOPT 35 ILL. ADMIN. CODE 740.800**

CITIZENS FOR A BETTER ENVIRONMENT, by and through its attorney, the Chicago Legal Clinic, hereby petitions the Illinois Pollution Control Board to adopt the following regulations as a supplement to the Illinois Site Remediation Program:

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER F: RISK BASED CLEANUP OBJECTIVES

PART 740: SITE REMEDIATION PROGRAM

SUBPART H: REQUIREMENTS RELATED TO SCHOOLS

740.800 General

- a) The purpose of Subpart H is to ensure that children and the general public are not exposed to harmful pollutants at a remediation site intended for future use as a school that has been enrolled in the Site Remediation Program, thereby protecting human health and the environment.
- b) For the purposes of this Subpart, the term "school" means a school as defined in Section 34-1.1 of the School Code: any public educational facility in Illinois, including grounds and/or campus, consisting of students, comprising one or more grade groups or other identifiable groups, organized as one unit with one or more teachers to give instruction of a defined type. Public educational facility includes, but is not limited to, primary and secondary (kindergarten-12th grade), charter, vocational, alternative, and special education schools. Public educational facility does not include junior colleges, colleges, or universities.

740.805 Requirements Prior to Public Use

- a) A remediation site or any buildings or structures contained within the boundary lines of the site, that is enrolled in the Site Remediation Program and RA that has enrolled a remediation site into the Site Remediation Program that is intended for future use as a school shall not make that site or any buildings or structures contained within the boundary lines of the site be made available for use by children and the general public without first completing its Remedial Action Plan and receiving a NFR Letter from the Agency. This section shall not be construed to exempt a RA from any additional requirements set forth in Section 58.15 of the Environmental Protection Act.

740.810 Engineered Barriers and Institutional Controls

- a) The RA or any subsequent transferee of a remediation site subject to this Subpart H shall arrange with an LPE for an inspection of the remediation site within 120 days before every fifth anniversary of the date of issuance of the NFR Letter. The purpose of the inspection shall be to determine whether or not the effectiveness of all engineered barriers and institutional controls required by the Remedial Action Plan and the NFR Letter has been maintained.

- 1) The LPE shall prepare a report on the results of the inspection, itemizing each engineered barrier and institutional control and whether or not the effectiveness of each engineered barrier and institutional control has been maintained. If the effectiveness of any engineered barrier or institutional control has been compromised, the LPE shall describe the nature of the defects.

- 2) The LPE responsible for the site inspection and preparation of the report shall affirm by original signature as follows:

I attest that the inspection of the remediation site to confirm the effectiveness of the engineered barriers and institutional controls required by the Remedial Action Plan and the NFR Letter was performed under my direction and that:

A) This document and all attachments were prepared under my direction or reviewed by me, and;

B) To the best of my knowledge and belief, the work and conclusions described in this report are in accordance with the requirements of

35 Ill. Adm. Code 740 and 742, the site's Remedial Action Plan and NFR letter, and generally accepted engineering practices; and

C) The information presented is accurate and complete.

3) The LPE's report shall be submitted to the Agency no later than every fifth anniversary of the date of issuance of the NFR letter.

b) The Agency may void the NFR Letter in accordance with Section 740.625 if:

1) An LPE's report is not submitted to the Agency by any fifth anniversary of the date of issuance of the NFR Letter; or

2) The LPE's report indicates that the effectiveness of any engineered barrier or institutional control has not been maintained.

c) The requirements of this Section shall not apply to a remediation site if no engineered barriers or institutional controls were required under the Remedial Action Plan and the NFR Letter, or if the remediation site is no longer used as a school site.

d) If the site is no longer used as a school, or If the site is transferred to a third party, the transferor of the site recipient of the original NFR letter is required to notify the Agency of such changes.

a) Every five years following the date in which the Agency issued a NFR Letter, the RA or any other subsequent transferee of the remediation site shall provide written certification, in compliance with the requirements set out by the Agency in the NFR letter, to the Agency that land use limitations have been maintained and that there has been no disturbance or removal of contamination that has been left in place in accordance with the Remedial Action Plan and NFR Letter.

1) If the Agency does not receive a certification letter on a timely basis, the Agency shall provide written notice to the RA or any other subsequent transferee of such failure and allow 30 additional days for certification to be provided.

2) In the case that certification is not received within the 30 day period, the Agency may void the NFR Letter consistent with Section 740.625.

740.815 Public Notice of Site Remedial Action Plan

a) No later than 10 days after receipt of the Agency's notice of acceptance into the Site Remediation Program of a remediation site intended for future use as a

school, the RA shall mail written notice to interested and affected persons, public officials and organizations of the site's enrollment into the program.

b) The notice shall contain the following information at a minimum:

- 1) The name and address of the RA;
- 2) The location of the remediation site;
- 3) A description of the intended use of the site (e.g., buildings, playgrounds, athletic fields);
- 4) A description of the site history including past uses;
- 5) A statement that the site has been enrolled in the Site Remediation Program, will be undergoing environmental site investigation, and may require environmental remediation prior to use as a school site;
- 6) The name of a contact person and telephone number where that person may be reached; and
- 7) The location and hours of the repository established pursuant to Section 740.820 of this Part.

a) The RA shall provide notice to interested persons 30 days subsequent to submission of a Site Remedial Action Plan for a remediation site intended for future use as a school, public park, or playground. If the Site Remedial Action Plan is amended, the Agency will determine, based on the nature of the amendments, whether the RA needs to provide additional notice. In determining the form of this notice, the RA will consider the recognized environmental conditions and related contaminants of concern, and the interests of those who may be affected. The RA shall consult with the Agency to obtain names and addresses of likely interested persons, public officials and organizations to be notified. In addition, notice shall be published in at least one newspaper of general circulation in the county where the remediation site is located. Both methods of notice shall include at least the following information:

740.820 Establishment of Document Repository

a) No later than 10 days after receipt of the Agency's notice of acceptance into the Site Remediation Program of a remediation site intended for future use as a school, the RA shall establish a repository where documents prepared by the RA for the Agency and by the Agency for the RA may be viewed and/or copies obtained. The repository shall be located and open to the public at a place and at times convenient to interested and affected persons. The RA shall update the

repository promptly and continuously as documents are generated throughout the remediation process.

740.825 Fact Sheet

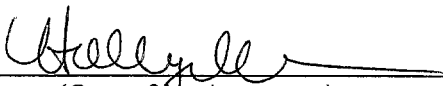
- a) No later than 10 days after submission to the Agency of a Remedial Action Plan for a remediation site intended for future use as a school, the RA shall mail to interested and affected persons, public officials and organizations a Fact Sheet. The Fact Sheet shall contain the following information:
- 1) The location and boundary lines of the remediation site;
 - 2) A site history;
 - 3) A description of the intended use of the site (e.g., buildings, playgrounds, athletic fields);
 - 4) A description of the surrounding land uses;
 - 5) The nature and extent of the recognized environmental conditions and related contaminants of concern identified at the remediation site;
 - 6) A description of the steps that are proposed in the Remedial Action Plan to address the recognized environmental conditions and related contaminants of concern;
 - 7) The nature of the NFR Letter requested (e.g., focused or comprehensive, reliance on engineered barriers or institutional controls);
 - 8) The name of a contact person and telephone number where that person may be reached to answer questions and to arrange for meetings with concerned members of the community; and
 - 9) The location and hours of the repository established pursuant to Section 740.820 of this Part.

740.820 Community Relations Plan

- a) The RA, their environmental contractor, or community relations contractor may develop and implement a Community Relations Plan consistent with Section 58.7(h) of the Environmental Protection Act and the guidance adopted by the Agency pursuant to that section.

b) ~~If the RA, their environmental contractor, or community relations contractor is not willing to develop and implement a CRP, the Agency shall develop and implement a CRP in response to a request to do so by an interested person(s).~~

CITIZENS FOR A BETTER ENVIRONMENT

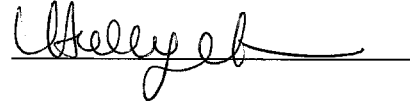
By: 
(One of its Attorneys)

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CERTIFICATE OF SERVICE

The undersigned certifies that copies of an amended proposal to adopt 35 Ill. Admin. Code 740.800 were served upon the parties listed on the attached Service List by depositing said documents in the U.S. Mail in Chicago, Illinois on or before 5:00 p.m. on the 1st day of May, 2001.

A handwritten signature, appearing to be "Jeffrey", is written over a horizontal line.

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