

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAY 03 2001
STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:

AMENDMENTS TO REGULATION OF
PETROLEUM LEAKING
UNDERGROUND STORAGE TANKS
(35 ILL. ADM. CODE 732)

R01-26
(Rulemaking - Land)

P.C.#8

NOTICE OF FILING

TO: Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(VIA FEDERAL EXPRESS)

Matthew J. Dunn, Chief
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(VIA FIRST CLASS)

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(VIA FIRST CLASS)

Joel Sternstein, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
(VIA FEDERAL EXPRESS)

Attached Service List

PLEASE TAKE NOTICE today that I have filed with the Clerk of the Illinois Pollution Control Board the COMMENTS OF THE CHEMICAL INDUSTRY COUNCIL OF ILLINOIS, a copy is herewith served upon you.

Respectfully Submitted,

By:

Christie M. Bianco
Christie M. Bianco

Date: May 2, 2001

Christie M. Bianco
Chemical Industry Council of Illinois
9801 West Higgins Road, Suite 515
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STATE OF ILLINOIS
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COMMENTS OF THE CHEMICAL INDUSTRY COUNCIL OF ILLINOIS

NOW COMES the CHEMICAL INDUSTRY COUNCIL OF ILLINOIS (CICI) through its Regulatory Affairs Director, Christie M. Bianco, and hereby submits the following comments relating to the above-referenced matter.

CICI is a not-for-profit, statewide association that represents 189 corporations, over one hundred of which are chemical firms who manufacture, blend, distribute and sell chemicals. The chemical industry in the state of Illinois ranks third in the United States in chemical exports, fourth in value of chemical shipments and maintains more than 62,000 employees.

CICI appreciates the opportunity to comment on the Illinois Environmental Protection Agency's (Agency) Amendments to Regulation of Petroleum Leaking Underground Storage Tanks proposal and the process the Agency used to draft and promulgate the proposal. CICI members have participated in the drafting process of this proposed rule through involvement in the Site Remediation Advisory Committee (SRAC). As members of the regulated community we welcomed the opportunity to express our input.

In testimony pre-filed on March 29, 2001, and given at the April 3, 2001, Pollution Control Board hearing, the Illinois Petroleum Council (IPC) brought up two major concerns with the Agency's current proposal: 1.) the rigorous requirements for letters sent to off-site property

owners and 2.) the proposals failure to define a standard the Agency will use to determine when a No Further Remediation Letter (NFR) will be issued. CICI agrees with both of these concerns.

Like IPC, CICI feels that the required content of the letter to be sent to off-site property owners and operators is too specific, inflammatory and possibly inaccurate. We agree that it is the responsibility of the UST owner or operator to address contamination released by the UST that occurred during the time that UST was owned or operated by that operator or owner. However, the requirements set forth in the proposed language go beyond that responsibility. One requirement is to return the property to its original condition, prior to entry. If, as a result of a release on to an off-site property, the UST owner or operator has to install an engineered barrier or a corrective action system, this will not be possible.

The letter also requires legal admissions that are unnecessary and unfair. In its testimony, IPC gave an example of an adjacent site having prior or subsequent releases for which the UST owner or operator is not responsible. Thus, requiring the UST owner operator to take full ownership of damages found on the adjacent property would be unfair.

To remedy this, IPC proposes a more general format, which allows the letter to be tailored to the site-specific situation, while still providing a baseline for agency review. In addition, they recommend omitting unwarranted and/or inaccurate legal admissions. The purpose of the letter is to inform the off-site property of the situation and then to gain access to the adjacent property to remediate any damages that are a direct result of the UST release. Like IPC, CICI feels these modifications would better achieve that goal.

The second area of concern is the proposals failure to define a standard the Agency will use to determine when a No Further Remediation Letter (NFR) will be issued. Again, we agree with the IPC's assessment that the Agency should focus on imminent threats of harm to human

health or the environment rather than simply listing possible exposure scenarios. IPC goes on to suggest the following factors for consideration in an imminent threat of harm standard: presence of free product on off-site property; presence of fire, explosion and vapor hazards through natural or manmade pathways on the off-site property; and the presence of potable water wells, surface water, setback zones or regulated recharge areas on or adjacent to the off-site property. CICI supports inclusion of these factors in an Agency standard used to determine if a NFR letter would be granted.

We thank the Board for their consideration of these comments.

Respectfully Submitted,
Chemical Industry Council of Illinois

By: lmBianco
Christie M. Bianco

Dated: May 2, 2001

Christie M. Bianco
Regulatory Affairs Director
Chemical Industry Council of Illinois
9801 West Higgins Road, Suite 515
Rosemont, IL 60018

CERTIFICATE OF SERVICE

I, Christie M. Bianco, the undersigned, hereby certifies that copies of the COMMENTS OF THE CHEMICAL INDUSTRY COUNCIL OF ILLINOIS were served upon those persons on the attached service list by depositing said documents in envelopes affixed with sufficient postage into the U.S. Mail on the 2nd day of May, 2001.



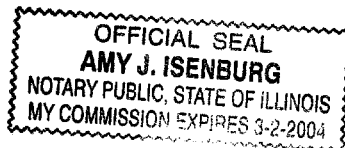
Christie M. Bianco

SUBSCRIBED AND SWORN TO BEFORE ME

This 2nd day of May, 2001


Notary Public

exp - 3/2/04



R01-26 SERVICE LIST
In the Matter of: Amendments to Regulation of Petroleum Leaking Underground Storage Tanks: 35 Ill. Adm. Code 732
Revised April 23, 2001

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R01-26 SERVICE LIST

In the Matter of: Amendments to Regulation of Petroleum Leaking Underground Storage Tanks: 35 Ill. Adm. Code 732

Revised April 23, 2001

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