



**Illinois**  
Department of  
**Agriculture**

George H. Ryan, Governor • Joe Hampton, Director

**Office of the Director**

State Fairgrounds • P.O. Box 19281 • Springfield, IL 62794-9281 • 217/782-2172 • TDD 217/524-6858 • Fax 217/785-4505

**RECEIVED**  
CLERK'S OFFICE

June 19, 2001

JUN 20 2001

STATE OF ILLINOIS  
Pollution Control Board

Ms. Dorothy Gunn, Clerk  
Pollution Control Board  
100 West Randolph, Suite 11-500  
James R. Thompson Center  
Chicago, IL 60601

*P.C. #9*

Re: Livestock Waste Regulations  
35 Ill. Adm. Code 506  
R01-28 (Rulemaking-Land)

Dear Ms. Gunn:

Enclosed with this cover letter please find an original and nine (9) copies of the following documents for the above-stated rulemaking:

Notice of Filing  
Motion for Leave to File Instantly  
Post-Hearing Comments of the Illinois Department of Agriculture  
Proof of Service

If you have any questions or concerns, please do not hesitate to call me at 785-5713. Thank you for your assistance in this matter.

Sincerely,

ILLINOIS DEPARTMENT OF AGRICULTURE

Linda Rhodes  
Administrative Assistant

Enclosures

**RECEIVED**  
CLERK'S OFFICE

JUN 20 2001

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS**

**IN THE MATTER OF:**

**LIVESTOCK WASTE REGULATIONS  
35 ILL. ADM. CODE 506**

)  
)  
)  
)  
**R01-28  
(Rulemaking - Land)**

**NOTICE**

TO: Dorothy M. Gunn, Clerk  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601-03286  
**(FEDERAL EXPRESS)**

Matthew J. Dunn, Chief  
Environmental Control Division  
Office of the Attorney General  
James R. Thompson Center  
100 W. Randolph, 11<sup>th</sup> Floor  
Chicago, IL 60601-3218  
**(FIRST CLASS)**

Thomas V. Skinner, Director  
IL Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, IL 62794-9276  
**(FIRST CLASS)**

Brent Manning, Director  
IL Dept. of Natural Resources  
524 South Second Street  
Springfield, IL 62701-9225  
**(FIRST CLASS)**

Dr. John R. Lumpkin  
IL Department of Public Health  
535 West Jefferson, Floor 5  
Springfield, IL 62761-5058  
**(FIRST CLASS)**

Carol Sudman, Hearing Officer  
Illinois Pollution Control Board  
600 South Second, Suite 402  
Springfield, IL 62704  
**(FIRST CLASS)**

Service List  
**(FIRST CLASS)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the attached **Motion for Leave to File Instantly and Post-Hearing Comments of the Illinois Department of Agriculture**, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS DEPARTMENT OF AGRICULTURE  
OF THE STATE OF ILLINOIS

By Cynthia Ervin

Cynthia Ervin  
General Counsel

DATED: June 19, 2001

P. O. Box 19281  
Springfield, IL 62794-9281

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**RECEIVED**

CLERK'S OFFICE

JUN 20 2001

STATE OF ILLINOIS  
Pollution Control Board

**ILLINOIS POLLUTION CONTROL BOARD**

|                         |   |                   |
|-------------------------|---|-------------------|
| IN THE MATTER OF:       | ) |                   |
|                         | ) |                   |
| AMENDMENTS TO LIVESTOCK | ) |                   |
| WASTE REGULATIONS       | ) | R01-28            |
| (35 ILL. ADM. CODE 506) | ) | (Rulemaking-Land) |

Motion for Leave to File Instanter

NOW COMES the ILLINOIS DEPARTMENT OF AGRICULTURE  
(Department), by its attorney, Cynthia Ervin, and requests that the Hearing Officer allow  
the filing of these Post Hearing Comments instanter for the reasons set forth herein.

1. After receiving all the post-hearing comments in this matter, the undersigned counsel spoke with the Hearing Officer concerning submitting post-hearing comments to clarify a few points contained in post-hearing submissions and was directed to file these comments with a Motion for Leave to File Instanter.

2. The Department received the comments of Terry Feldmann on June 6, 2001, after the close of the comment period.

3. The Department believes that several statements in Mr. Feldmann's comments need to be clarified in order for the Board to fully understand the Department's proposal.

4. The Board has an interest in developing a full and complete record in the aforementioned rulemaking.

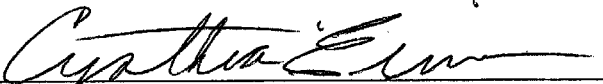
5. Because there is no statutory deadline and no response provided to other members of the public to respond to these Post Hearing Comments, no members of the

public or a regulatory agency have been or will be adversely impacted by filing the comments several days late.

Therefore, for the reasons set forth herein, we request that the hearing officer grant this Motion for Leave to File Instantly authorizing the filing of the attached Post Hearing Comments.

Respectfully submitted,

ILLINOIS DEPARTMENT OF AGRICULTURE  
OF THE STATE OF ILLINOIS

By   
Cynthia Ervin  
General Counsel

DATED: July 19, 2001

P. O. Box 19281  
Springfield, IL 62794-9281

ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

JUN 20 2001

STATE OF ILLINOIS  
*Pollution Control Board*

|                         |   |                   |
|-------------------------|---|-------------------|
| IN THE MATTER OF:       | ) |                   |
|                         | ) |                   |
| AMENDMENTS TO LIVESTOCK | ) |                   |
| WASTE REGULATIONS       | ) | R01-28            |
| (35 ILL. ADM. CODE 506) | ) | (Rulemaking-Land) |

Post-Hearing Comments of the Illinois Department of Agriculture

NOW COMES the ILLINOIS DEPARTMENT OF AGRICULTURE  
(Department), by its attorney Cynthia Ervin, and hereby submits comments in the  
aforementioned rulemaking.

The Department welcomes the opportunity to file post-comment period comments  
with the Illinois Pollution Control Board (Board) in the matter of amendments to the  
livestock waste regulations (35 Ill. Adm. Code 506). The Department has presented  
testimony at the hearings, provided answers to questions from the Board and members of  
the public, and submitted public comments during the hearing process. The Department  
would like to provide further comment and clarification to the comments submitted by  
Mr. Terry Feldmann, P.E. during the comment period.

Comment number 2 from Mr. Feldmann, referring to Section 506.210 of the rule  
proposal, states that the use of secondary containment at a livestock waste handling  
facility is a requirement. The Department reiterated statutory language from the  
Livestock Management Facilities Act (Act) in the proposal. The statutory language  
includes, in part, "... if an engineer ... determines ... that construction of such a  
secondary berm or other feature or features is necessary in order to ensure against a

release . . .". The intent of the Department was not to require the secondary containment in all cases but to maintain consistency with the statutory language and leave the determination to the professional judgment of the engineer involved.

Mr. Feldmann contends, in his comment number 3, that the 6-inch rainfall storage requirement, as presented in Section 506.303, is already accounted for in the 2-foot freeboard and suggests adding the 25-year, 24-hour storm event amount. The Department was maintaining consistency with the lagoon storage volume requirements of Sections 506.204(g)(3) and (4) when proposing the storage volume requirements for non-lagoon facilities. The Department contends that the proposal, in a more simplistic approach, accomplishes basically the same outcome as Mr. Feldmann suggests since the 25-year, 24-hour storm event amounts for the state of Illinois vary from slightly less than 5 inches in the north to slightly less than 6 inches in the south.

In his comment number 4, Mr. Feldmann disagrees with the requirement for a hydraulic conductivity in the floor of deep bedded livestock systems and poultry litter systems of equal to or less than  $1 \times 10^{-7}$  centimeters per second (Section 506.307(b)). The Department concurs that these types of livestock waste handling facilities using absorbent materials are different than the more common types of waste handling facilities such as deep pits, lagoons, or storage ponds. However to provide consistency, the Department contends that a minimum hydraulic conductivity for these structures is required to guard against events such as water leaks and inadequate amounts of bedding. As proposed in the rules, alternative design proposals can be submitted to the Department. Furthermore, in our previous public comments, the Department suggested increasing the allowable hydraulic conductivity to  $1 \times 10^{-6}$  centimeters per second.

After further consideration, the Department concurs with Mr. Feldmann's comment number 7 regarding the installation of perimeter drainage tubing near the footings of the structure (Section 506.310(d)). Installing the tubing one foot below the footings may increase construction costs unnecessarily. The Department suggests language requiring the top of the perimeter drainage tubing be positioned below the top of the waste storage structure floor.

The Department disagrees with comment number 8 from Mr. Feldmann regarding the thickness of walls and floors of constructed in an area of shallow aquifer material (Section 506.310). Section 13(b) of the Act states in part, "... shall be designed to ensure the structural integrity of the containment structure and to prevent seepage of the stored material to groundwater." This was the intent of the Department when proposing the rule. The rule does not hinder the professional judgment of the engineer as alternative design proposals can be submitted to the Department. Mr. Feldmann alludes to the involvement of an engineer in the design of the structure. As the rule is proposed, the involvement of a licensed professional engineer is not always required in the development of construction plans.

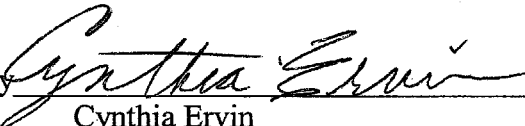
The Department concurs with Mr. Feldmann's comment number 2 with regard to the testimony of the Illinois Environmental Protection Agency. The requirement for a storage facility for perimeter drainage tubing effluent is excessive and unnecessarily expensive. The Department also commented, in our previous public comments, that the inclusion of a sampling port would be unnecessary and overburdensome.

Thank you again for the opportunity to provide these additional comments. The Department looks forward to the Board's response to our proposal and the many

comments that have been offered by the various interest groups. In developing our proposal and subsequent comments, the Department has attempted to balance environmental protection with economic and technical feasibility. Although certainly not perfect, we continue to believe that we have been successful in that attempt and request the Board adopt the proposal with only minor changes as noted in our comments.

Respectfully submitted,

ILLINOIS DEPARTMENT OF AGRICULTURE  
OF THE STATE OF ILLINOIS

By   
Cynthia Ervin  
General Counsel

DATED: July 19, 2001

P. O. Box 19281  
Springfield, IL 62794-9281



STATE OF ILLINOIS       )  
                                      )  
COUNTY OF SANGAMON    )

**PROOF OF SERVICE**

I, the undersigned, on oath state that I have served the attached Motion for Leave to File  
Instantter and Post-Hearing Comments of the Illinois Department of Agriculture, upon the persons to  
whom they are directed by placing copies in envelopes addressed to:

Dorothy M. Gunn, Clerk  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601-03286  
**(FEDERAL EXPRESS)**

Matthew J. Dunn, Chief  
Environmental Control Division  
Office of the Attorney General  
James R. Thompson Center  
100 W. Randolph, 11<sup>th</sup> Floor  
Chicago, IL 60601-3218  
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Thomas V. Skinner, Director  
IL Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, IL 62794-9276  
**(FIRST CLASS)**

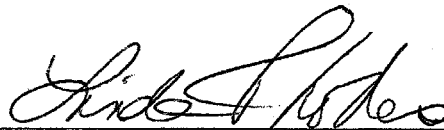
Brent Manning, Director  
IL Dept. of Natural Resources  
524 South Second Street  
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Dr. John R. Lumpkin  
IL Department of Public Health  
535 West Jefferson, Floor 5  
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**(FIRST CLASS)**

Carol Sudman, Hearing Officer  
Illinois Pollution Control Board  
600 South Second, Suite 402  
Springfield, IL 62704  
**(FIRST CLASS)**

Service List  
**(FIRST CLASS)**

and mailing them from Springfield, Illinois on June 19, 2001, with sufficient postage affixed as  
indicated above.



SUBSCRIBED AND SWORN TO BEFORE ME  
this 19<sup>th</sup> day of June, 2001.

  
\_\_\_\_\_  
Notary Public



**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**R01-28 Service List**  
**Livestock Waste Management**  
**Friday, April 20, 2001**

Cindy Bushur-Hallam  
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524 S. Second St.  
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Chicago, IL 60610-

**R01-28 Service List**  
**Livestock Waste Management**  
**Friday, April 20, 2001**

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