

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PROPOSED AMENDMENTS TO)	R01-26
REGULATION OF PETROLEUM)	(Rulemaking – Land)
LEAKING UNDERGROUND STORAGE)	
TANKS (35 ILL. ADM. CODE 742))	

TESTIMONY OF DOUGLAS CLAY IN SUPPORT OF
THE ENVIRONMENTAL PROTECTION AGENCY'S
MOTION TO AMEND ITS PROPOSAL TO AMEND 35 ILL. ADM. CODE 732

My name is Doug Clay. I am the manager of the Leaking Underground Storage Tank Section within the Bureau of Land of the Illinois Environmental Protection Agency. I have been in my current position since September of 1994. This section is primarily responsible for reviewing the technical adequacy of plans, reports and associated budgets for the remediation of releases from underground storage tanks regulated under 35 Ill. Adm. Code, Parts 731 and 732.

Today I will be testifying in support of the motion to amend the proposed amendments to 35 Ill. Adm. Code, Part 732. These additional amendments are the result of clarifications necessitated by issues that have arisen since implementation of Part 732 in 1994 and subsequent amendments in 1997.

Section 732.103

Definitions of several new terms were added to Section 732.103. This includes definitions for "Environmental Land Use Control," "Federal Landholding Entity," "Federally Owned Property" and "Land Use Control Memorandum of Agreement". In addition, the definition of "Perfected" was amended to include perfection through IDOT and federal MOAs.

Section 732.203

Subsection 732.203(a)(5) was added for cases when free product is still being removed after 45 days from confirmation of the presence of free product. This will allow the Agency the ability to establish a schedule for submittal of subsequent free product removal reports.

Subsection 732.203(b) clarifies that owners and operator do not have to receive an early action extension approval from the Agency, when free product removal activities go beyond 45 days from the initial notification of the release, to be eligible to seek reimbursement for free product removal costs.

Section 732.405

Subsection 732.405(f) was added allowing the Agency to require a new corrective action plan if it is determined that the approved corrective action plan has not achieved the applicable remediation objectives within a reasonable timeframe. This will prevent ineffective remediation from continuing, once the Agency has determined that it does not meet the appropriate remediation objectives, thus conserving UST Fund resources.

Section 732.610

Subsection 732.610(b)(2) changes the word "amount" to "amounts" to be consistent with the way reimbursement claims are submitted and approved.

Section 732.703

Subsection 732.703(d) was added to allow the perfection of NFR letters on federal property for which the Federal Landholding Entity does not have the authority under federal law to record the NFR letter. This subsection will allow the NFR letter to be perfected by the Federal Landholding Entity entering into a Land Use Control

Memorandum of Agreement with the Agency. This will help to ensure that applicable institutional controls and engineered barriers that were relied upon in issuing the NFR letter will be maintained.

Section 732.704

Subsection 732.704(a)(7) was amended, subsections (8) and (9) were added and subsection (10) was renumbered. The changes address specific acts that may result in avoidance of the NFR letter. These include failure to comply with an IDOT Memorandum of Agreement, failure to comply with a Land Use Control Memorandum of Agreement, and failure to record the NFR letter following the transfer of a Federally Owned Property.

THIS FILING IS SUBMITTED ON RECYCLED PAPER



Kominger

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:)	
)	
Amendments to 35 Ill. Adm. Code 732;)	
Regulation of Petroleum Leaking)	R01-26
Underground Storage Tanks)	(Rulemaking)
)	

NOTICE OF FILING

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

Matthew J. Dunn, Chief
Environmental Bureau
Office of the Attorney General
188 W. Randolph, 20th Floor
Chicago, Illinois 60601

Robert Lawley, Chief Legal Counsel
Dept. of Natural Resources
524 South Second Street
Springfield, Illinois 62701-1787

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the Errata Sheet Number 1 to the Illinois Environmental Protection Agency's Proposal to Amend 35 Ill. Adm. Code 732, Motion to Amend Agency Proposal Amending 35 Ill. Adm. Code 732, Testimony of Doug Clay in Support of The Environmental Protection Agency's Proposal to Amend 35 Ill. Adm. Code 732, and Testimony of Kendra Brockamp in Support of the Illinois Environmental Protection Agency's Proposal to Amend 35 Ill. Adm. Code 732 by the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, a copy of which is herewith served upon you.

ENVIRONMENTAL PROTECTION AGENCY
OF THE STATE OF ILLINOIS

By: Judith S. Dyer
Judith S. Dyer
Assistant Counsel
Division of Legal Counsel

Dated: February 16, 2001

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544



CERTIFICATE OF SERVICE

I, the under signed attorney at law, hereby certify that on February 16, 2001, I served true and correct copies of Errata Sheet Number 1 to the Illinois Environmental Protection Agency's Proposal to Amend 35 Ill. Adm. Code 732, Motion to Amend Agency Proposal Amending 35 Ill. Adm. Code 732, Testimony of Doug Clay in Support of The Environmental Protection Agency's Proposal to Amend 35 Ill. Adm. Code 732, and Testimony of Kendra Brockamp in Support of the Illinois Environmental Protection Agency's Proposal to Amend 35 Ill. Adm. Code 732, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient postage affixed thereto, upon the following names persons:

Dorothy M. Gunn, Clerk
IL. Pollution Control Board
James R. Thompson Center
100 W. Randolph, Ste 11-500
Chicago, Illinois 60601
(Federal Express)

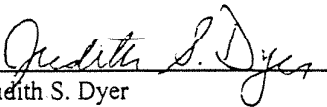
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Service List

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THIS FILING IS SUBMITTED ON RECYCLED PAPER

