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JUN 04 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)**
) *P.C. #6*

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, 11th Floor
Chicago, IL 60601-3218
(FIRST CLASS)**

**Thomas V. Skinner, Director
IL Environmental Protection Agency
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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 Public 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 1, 2001

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

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CLERK'S OFFICE

JUN 04 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)

Public Comments of the Illinois Department of Agriculture

NOW COMES the ILLINOIS DEPARTMENT OF AGRICULTURE (Department), and hereby submits comments in the aforementioned rulemaking.

The Department has presented testimony at the hearings through a summary of the provisions of the proposed rules and by clarifying points and answering questions from the Illinois Pollution Control Board (Board) and members of the public during the hearing process.

The Department appreciates the manner in which the Board has conducted the hearing process. At each hearing, ample opportunity was given to all interested parties to present information and express his or her views. The Department commends the Board for its handling of this matter.

Much time and effort from many individuals and groups were devoted to the development of this proposal. Representatives from each of the State agencies on the Livestock Management Facilities Advisory Committee (Illinois Department of Agriculture, Illinois Department of Natural Resources, Illinois Environmental Protection Agency, and Illinois Department of Public Health) were instrumental in shaping the final form of the rule proposal. Valuable input and suggestions were also received from members of commodity and interest groups. The Department would like to thank the members of the advisory committee and the representatives of the interest groups for their commitment and interest to agriculture and the

representatives of the interest groups for their commitment and interest to agriculture and the environment.

The Department continues to encourage the Board's adoption of the rule proposal as presented by the Department. As a result of the Livestock Management Facilities Advisory Committee meeting process, many interest groups have had an opportunity to participate in the proposal development process and the Department's formal submittal to the Board. Although consensus was not reached on every issue, the Department believes that the proposed rules contain compromises that are reasonable and promote agriculture and protect the environment. The Department, in its development of the proposal, has attempted to balance technical feasibility with economical reasonableness while maintaining a focus on the protection of the environment.

The Illinois Environmental Protection Agency (Agency) provided testimony during the Board's second hearing where several points were discussed. The Agency suggested that additional requirements pertaining to the siting of livestock facilities in karst areas should be included in the final rule. The Department would like to point out that several of the publications submitted by the Agency in their testimony had not been produced or were not made available to the committee during the rule development process. Therefore, many of the suggested changes or additional requirements proposed by the Agency were not discussed during the committee meetings. Regardless of this new information, the Department continues to believe that an effective and efficient system for the siting of facilities in a karst area has been included in our proposal. We feel that the proposal allows for a balance between environmental protection and allowing livestock producers to produce livestock and livestock products without the burden of excessive regulations. A procedure, modeled after the aquifer material detection procedure for lagoons, has been proposed for the detection of voids in a karst area. The Department believes

the proposal does indeed balance economic feasibility with environmental protection.

The Agency also commented on the location of the perimeter drainage tubing around non-lagoon livestock waste handling facilities. The Department does not object to modifying the language concerning the placement of the tubing “at a horizontal distance that provides sufficient drainage to maintain the water table elevation below the bottom of the livestock waste handling facility”.

When constructed to the required specifications, the Department does not believe that a strong probability exists for the release of manure through the perimeter drainage tubing around non-lagoon facilities. In fact, the Department believes that the inclusion of perimeter drainage tubing around a non-lagoon facility should lessen the possibility for in-ground manure storage tank failures. We believe that a requirement for the installation of sampling ports or the automatic sampling of tile drainage effluent is unnecessary and unreasonable.

For this reason, the Department did not propose the installation of a sampling port in the perimeter drainage tubing system, as the Agency suggested in testimony. Other types of accidental mishaps may have a more likely occurrence of happening than the release of livestock waste through a subsurface perimeter drainage tubing. For these reasons the Department also does not perceive the need for a separate collection area for the effluent from the tubing.

Dr. Ken Koelkebeck from the University of Illinois presented information from a study conducted on the floors of turkey confinement facilities or houses. The Department appreciates the interest and contribution of Dr. Koelkebeck and Perdue Farms to this rulemaking process. The data presented indicated little movement of nutrients past a few feet below the floor surface and also reported some soil permeabilities inside the houses that were greater than the 1×10^{-7} centimeters per second requirement included in the Department’s proposal. Dr. Koelkebeck’s data was obtained from buildings on 3 farms that ranged in age from 9 to 12 years. Statements

made during his testimony indicated that the constant traffic of the birds contributed to the compaction and the resultant permeability levels. Since only three buildings were a part of the study, the Department remains concerned about the extrapolation of these data to all turkey, and possibly all poultry, facilities throughout the state. However, recognizing the reported potential problems of foot damage to the birds on concrete which reduce the desirability of concrete floors and the Department's proposed permeability level of 1×10^{-6} centimeters per second for concrete, the Department would support a change in the permeability for the floors of poultry buildings. In Section 506.307(b), the Department would support a permeability level of 1×10^{-6} centimeters per second where the poultry litter is handled in a solid form.

In summary, the Illinois Department of Agriculture, in cooperation with the other members of the Livestock Management Facilities Advisory Committee and various interest groups, has attempted to balance appropriate environmental protection with the economic viability of the livestock industry in the drafting of our proposal and the developments of our comments. The Department believes this rule proposal, coupled with the recently adopted Part 900 rules, will implement the Livestock Management Facilities Act in a way that is consistent with the mandate presented to us. The Department also thanks the Board for the opportunity to participate in this process and present these final comments.

Respectfully submitted,

ILLINOIS DEPARTMENT OF AGRICULTURE
OF THE STATE OF ILLINOIS

By Cynthia Ervin
Cynthia Ervin
General Counsel

DATED: June 1, 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 Public 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
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100 W. Randolph, Suite 11-500
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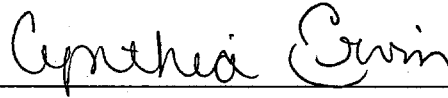
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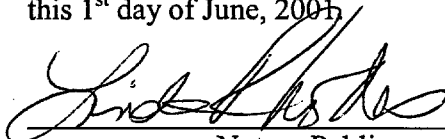
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Service List
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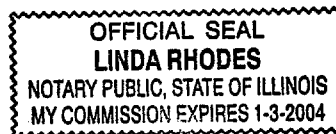
and mailing them from Springfield, Illinois on June 1, 2001, with sufficient postage affixed as indicated above.



SUBSCRIBED AND SWORN TO BEFORE ME
this 1st day of June, 2001,



Notary Public



THIS FILING IS SUBMITTED ON RECYCLED PAPER

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Friday, April 20, 2001**

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R01-28 Service List
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Friday, April 20, 2001

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