

ORIGINAL

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
Environmental Bureau
Office of the Attorney General
188 West Randolph Street, 20th Floor
Suite 11-500
Chicago, Illinois 60601
(VIA FIRST CLASS)

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

Date: May 2, 2001

Christie M. Bianco
Chemical Industry Council of Illinois
9801 West Higgins Road, Suite 515
Rosemont, IL 60018
847/823-4020

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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: *CM Bianco*
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.

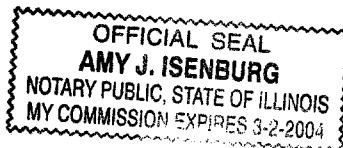

Christie M. Bianco

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

fname	company	Address	city/state	zip
Anderson	Black & Veatch	101 N. Wacker Drive, Suite 1100	Chicago, IL	60606
Aronberg	Kuhlmann Design Group	15 East Washington	Belleville, IL	62220
Bianco	Chemical Industry Council of Illinois	9801 W. Higgins Road, Suite 515	Rosemont, IL	60018
Bonczyk		601 W. Monroe	Springfield, IL	62704
Carson, P.E.		924 Cherokee Drive	Springfield, IL	62707
Chappel, P.E.	Inland/Chappel Environmental	144 Lacomwood	Springfield, IL	62707
Consalvo	Pioneer Environmental	1000 N. Halsted	Chicago, IL	60622
		Suite 202		
Dickett	Sidley & Austin	Bank One Plaza	Chicago, IL	60603
		10 South Dearborn Street		
Dombrowski	Wildman, Harrold, Allen & Dixon	225 W. Wacker Drive, Suite 3000	Chicago, IL	60606
Dye	CORE Geological Services, Inc.	2621 Montego, Suite C	Springfield, IL	62704
Dyer	Assistant Counsel	1021 North Grand Avenue East	Springfield, IL	62794-9276
	Division of Legal Counsel	P.O. Box 19276		
	Illinois Environmental Protection Agency			
Falbe, Esq.	Wildman, Harrold, Allen & Dixon	225 W. Wacker Drive, Suite 3000	Chicago, IL	60606-1229
Flynn	Attorney at Law	1035 South Second Street	Springfield, IL	62704
Gleim	Arcadis	35 East Wacker, Suite 1000	Chicago, IL	60601
Goodwin, P.E.	Goodwin Environmental Consultants, Inc.	400 Bruns Lane	Springfield, IL	62702
Gray	SEECO Environmental Services, Inc.	7350 Duwon Drive	Tinley Park, IL	60477
Gunn	Clerk of the Board	100 West Randolph Street	Chicago, IL	60601
	Illinois Pollution Control Board	Suite 11-500		
Herlacher	Herlacher Angleton Associates, LLC	8731 Bluff Road	Waterloo, IL	62298
Huff, P.E.	Huff & Huff, Inc.	512 W. Burlington, Suite 100	LaGrange, IL	60525
James	Carlson Environmental, Inc.	65 E. Wacker Place, Suite 1500	Chicago, IL	60601
Kelly, PE	United Science Industries, Inc.	P.O. Box 360	Woodlawn, IL	62898
Liss	Andrews Engineering, Inc.	3535 Mayflower Boulevard	Springfield, IL	62707
Ludewig	Caterpillar	Bld F	Peoria, IL	61656-1875
	Tech Center	P.O. Box 1875		
Magel	Karaganis & White, Ltd.	Suite 810, 414 N. Orleans	Chicago, IL	60610
Moncek	United Environmental Consultants, Inc.	119 East Palatine Road, Suite 101	Palatine, IL	60067
Nienkerk, P.G.	Senior Project Manager	3140 Finley Road	Downers Grove, IL	60515
	Clayton Group Services, Inc.			
Rieser	Ross & Hardies	150 N. Michigan	Chicago, IL	60601
Smith	Pioneer Environmental	1000 N. Halsted	Chicago, IL	60622
		Suite 202		

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

Sternstein	Joel J.	Hearing Officer	100 West Randolph Street Suite 11-500	Chicago, IL	60601
Strubel	Dan	Illinois Pollution Control Board	P.O. Box 1500	Springfield, OH	45001
Sykuta	David A.	Speedway Super America, LLC	P.O. Box 12047	Springfield, IL	62791
Vlahos	Georgia	Illinois Petroleum Council Counsel	2501A Paul Jones Street	Great Lakes, IL	60088-2845
Walker	Rodger	Naval Training Center	500 W. Herrin Street	Herrin, IL	62448
Watson	John	Walker Engineering	321 N. Clark Street	Chicago, IL	60610
Zolyak	Gary T.	Gardner, Carton & Douglas U.S. Army Environmental Center	Northern Regional Environmental Office, Building E-4480	Aberdeen Proving Ground, MD	21010-5401