

Pollution Control Board Stays a Portion of a Proposed Rulemaking to Amend Rules for Tiered Approach to Corrective Action Objectives (TACO)

The Illinois Pollution Control Board, on November 5, 2009, granted a motion to stay a portion of an Illinois Environmental Protection Agency (IEPA) proposal to amend the Board's rules concerning the Tiered Approach to Corrective Action Objectives (TACO). The partial stay in the rulemaking docketed as In the Matter of: Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742) (R09-9), will last through November 5, 2010, unless the Board issues an order terminating the stay sooner.

In its October 5, 2009 motion, IEPA asked the Board to stay only the portion of the TACO rulemaking dealing with the "proposed amendments that pertain to vapor intrusion." IEPA stated that after the second hearing and the pre-first notice public comment period, representatives of the United States Environmental Protection Agency expressed serious concerns with the vapor intrusion part of IEPA's rulemaking proposal. IEPA sought the partial stay to evaluate USEPA's concerns, the impact of those concerns on the IEPA proposal, and the latest research findings on vapor intrusion. IEPA must file status reports during the term of the stay as directed in the Board's November 5, 2009 order. The balance of IEPA's proposed rule language is not subject to the stay.

IEPA had filed the pending rulemaking proposal on September 3, 2008, at which time IEPA noted that the TACO rules provide "procedures for developing remediation objectives based on various risks to human health posed by environmental conditions at a site." With the proposed amendments to the TACO rules, IEPA seeks to "add the indoor inhalation exposure route to the existing risk-based methodology." The proposed comprehensive changes include new definitions, equations, parameters, default remediation objectives, and mechanisms for managing the indoor inhalation pathway. IEPA stated that the "effect of the proposed amendments is to protect building occupants from volatile chemicals that have the potential to migrate from the soil and groundwater to indoor air." IEPA has also included amendments in its proposal to "update remediation objectives for all the exposure routes." The proposal has not been to first notice under the Administrative Procedure Act.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board's Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk's office at 312-814-3629, or by writing to the Clerk's office:

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